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The American Political Science Review

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THE SOCIAL SECURITY PROGRAM OF THE UNITED STATES

JOSEPH P. HARRIS

Committee on Public Administration, Social Science Research Council

The Federal Social Security Act, which may be regarded as the central core of the social security program, is an omnibus act, containing the following features: (1) a national, compulsory old-age insurance plan, covering all employees except certain exempted groups; (2) two measures designed to stimulate the states to enact state unemployment compensation laws, namely, (a) a uniform nation-wide tax upon employers, against which a credit is allowable for contributions made to approved state unemployment compensation plans, and (b) subsidies to the states to cover the administrative costs of unemployment compensation; and (3) grants-in-aid to the states for old-age assistance, pensions for the blind, aid to dependent children, child welfare, maternal and child health, vocational rehabilitation, and public health activities. It is estimated that each of the two forms of social insurance will apply to about 25,000,000 wage-earners, and, when the maximum rates become effective in 1949, will involve annual contributions of nearly $3,000,000,000.[1] This amount is approximately equal to the normal annual expenditure of the federal government prior to 1930. In addition, the grants-in-aid to the states were estimated by the actuaries of the President's Committee on Economic Security to reach a total of a half-billion dollars annually within a few years.[2]

HISTORY OF THE FEDERAL ACT[3]

When, in a message to Congress on June 8, 1934, the President indicated that he would submit a program of social insurance for

[1] Senate Finance Committee, *Report on the Social Security Bill*, 74th Congress, 1st Session, Report No. 628, May 13, 1935, pp. 26–27.

[2] Senate Finance Comm ttee, *Hearings on S. 1130*, 74th Congress, 1st Session (Washington, 1935), p. 250.

[3] See Paul H. Douglas, *Social Security in the United States* (New York, 1936), Chap. 4, and E. E. Witte, "An Historical Account of Unemployment Insurance in the Social Security Act," *Law and Contemporary Problems*, Jan., 1936, pp. 157–169.

consideration at the following session, the Wagner-Lewis unemployment insurance bill and the Dill-Connery old-age assistance bill were pending. Shortly afterwards, the President, by executive order, created the Committee on Economic Security, consisting of the Secretaries of Labor (chairman), Treasury, and Agriculture, the Attorney-General, and the Federal Emergency Relief Administrator. This committee appointed Professor Edwin E. Witte, of the University of Wisconsin, as executive director, and proceeded to build up a staff of actuaries and experts to study the whole problem of economic insecurity, and to prepare recommendations. The Committee also set up eight advisory committees of citizens upon the various aspects of the program, headed by a general advisory council of twenty-three distinguished citizens. The other advisory committees consisted of specialists in the fields of medicine, public health, hospitals, social welfare, child welfare, dentistry, and actuarial science.

On January 17, 1935, the President submitted the report of the Committee on Economic Security to Congress, and on the same day identical bills designed to carry the recommendations into effect were introduced in the Senate by Senator Wagner, and in the House by Representatives Doughton and Lewis. This report, outlining a program for social security, received general approval from the press; many editorials particularly commended its ideals and objectives. It was regarded, in the main, as a conservative program based upon social insurance systems in use in European countries. Since the major provisions of the bill were based upon the taxing powers of Congress, it was referred to the Ways and Means Committee of the House and to the Finance Committee of the Senate. These committees held extended hearings;[4] and the bill as reported out by the Ways and Means Committee on April 11 differed materially from the original bill, particularly as to form.[5]

In the debate on the floor of the House, the most vigorous opposition to the bill came from the advocates of the Townsend plan[6] and from the backers of the Lundeen unemployment in-

[4] See United States House of Representatives, Committee on Ways and Means, 74th Congress, 1st Session, *Hearings on H. R. 4120*, and Senate Finance Committee, *Hearings on S. 1130* (Washington, 1935).

[5] H. R. 7260.

[6] This plan called for free federal old-age pensions of $200 a month without any means test, to be paid to all persons over sixty years of age.

surance bill.[7] Advocates of these two measures bitterly attacked the provisions of the Social Security Bill as being wholly inadequate, and decried pay-roll taxes as a form of sales tax.[8] Upon a roll-call, the Townsend plan mustered fifty-six votes in favor of an amendment to substitute the McGroarty bill,[9] and the Lundeen bill, when offered as an amendment, obtained forty votes.[10]

Representatives from a number of poorer states who doubted whether their states would be able to match the federal aid for old-age assistance urged that the federal government should assume a much larger responsibility; but motions to this effect were uniformly voted down by large majorities.[11] Similarly, motions to remove the $15 a month limit of federal aid to any aged person, or the comparable limits in the aid to dependent children provisions, were also voted down.[12] The final vote on the bill in the House was 371 to 33.[13] Every member of the Ways and Means Committee, Democrats and Republicans alike, with the single exception of Mr. Reed of New York, voted for the measure. Several members, however, demurred at being forced to vote upon an omnibus measure, some features of which they did not approve.

The Senate Finance Committee reported the bill on May 13 with several important changes. These included the restoration of the section authorizing the Treasury to sell voluntary annuities (which was defeated on the floor of the Senate), the LaFollette amendment to permit states to enact the employer-reserve type of law, and a new title providing federal aid for pensions to the blind. The debate in the Senate dealt largely with the Clark amendment (see below). Neither the Townsend plan nor the Lundeen unemployment compensation bill received any support in the Senate. An amendment offered by Senator Norbeck to provide old-age

[7] This bill, which had been reported out favorably by the House Committee on Labor, provided for federal unemployemnt benefits, equal to full wages, to be paid to any unemployed person for as long as he remained unemployed. Partial employment was to be compensated, and persons whose wages failed to come up to a minimum standard fixed by the Secretary of Labor were to receive benefits sufficient to bring their wages up to the prescribed minimum. No provision whatever was made for financing this extraordinary scheme of benefits. They were simply to be paid out of the federal treasury.

[8] See particularly the remarks of Mr. Marcantonio, *Congressional Record*, 74th Congress, p. 6174, and the debate on the Lundeen bill when offered as an amendment, *ibid.*, pp. 6173–75.

[9] *Congressional Record, loc. cit.*, p. 6169.

[10] *Ibid.*, p. 6175.

[11] *Ibid.*, pp. 6173, 6176, 6178, and 6181.

[12] *Ibid.*, pp. 6176, 6178, and 6262.

[13] *Ibid.*, p. 6290.

pensions of $30 a month to dependent Indians, to be paid out of federal funds, was adopted, but was later eliminated by the conference committee.

UNEMPLOYMENT COMPENSATION

The President's Committee on Economic Security had been instructed to study the principal causes of economic insecurity and to recommend appropriate measures designed to provide a reasonable degree of security. It is obvious that any program for social security must necessarily deal with unemployment as a leading cause of economic insecurity. Although no adequate statistics on unemployment are available, according to the estimates of the American Federation of Labor, the number of unemployed persons from 1932 to the close of 1934 never dropped under 10,000,000 and rose to over 13,000,000 persons in the first four months of 1933.[14] The estimates of the National Industrial Conference Board for the years 1933 and 1934 are somewhat lower, but according to them, there were never less than 9,000,000 unemployed wage-earners during this period. Studies of the unemployment relief case load indicate that approximately eighty per cent of the families on relief were destitute because of inability of the wage-earner of the family to secure employment. Indeed, for the other twenty per cent, designated as unemployables, unemployment relief was not a suitable provision, and it was extended to this group only because of the emergency.

The major recommendation of the President's Committee was for the creation of a federal-state system of unemployment compensation (frequently, but less correctly, called unemployment insurance). It was recognized that unemployment compensation would provide only a first line of defense against unemployment, and if maintained upon insurance principles, as recommended by the Committee, would necessarily be limited in the amount of benefits which could be paid to unemployed insured workers.[15] Unemployment compensation benefits are customarily restricted to a maximum period of not more than twenty-six weeks within any year, and usually to about fifty per cent of regular wages.[16]

[14] See the testimony of President William Green before the Senate Finance Committee, *op. cit.*, p. 146; also *The American Federationist.*

[15] See Edwin E. Witte, "Major Issues in Unemployment Compensation," *Social Service Review*, March, 1935.

[16] See the summary of state laws below.

It is not possible for an unemployment compensation scheme to cover all of the gainfully occupied population. For administrative reasons, it is everywhere confined to employees; and certain large groups, such as agricultural workers, domestic servants, public employees, and others, are customarily excluded. According to the estimates of the actuaries of the Committee on Economic Security, the unemployment compensation tax levy by the federal government will cover approximately 25,000,000 of the estimated number of 48,830,000 gainful workers in this country.[17] It is understood, of course, that state unemployment compensation plans will not apply to persons who are now unemployed until they have regained employment and thus qualify for benefits.

Despite these limitations, unemployment compensation has recently come to be regarded generally as the most satisfactory means of providing a limited degree of protection for the great mass of wage-earners against the hazards of unemployment. Studies of the operation of the system in England and other countries indicate that it provides sufficient protection to tide over the great majority of workers between periods of unemployment without recourse to public relief.[18]

It is a principle of unemployment compensation that it can be extended only to workers who customarily are regularly employed.[19] Workers who have been long unemployed, or who have a record of seasonal or irregular employment, cannot be properly regarded as insurable risks. This group of workers are customarily excluded from unemployment insurance, or else are denied benefits by the requirement of a qualifying period of regular employment. Unemployment benefits, for a limited period of time, paid as a matter of right and not upon a means test, are generally recognized as an appropriate measure for employees who are usually regularly employed, and who for one reason or another find themselves involuntarily unemployed. If the worker remains unemployed for a long period, he tends to fall outside the group of insurable workers, and for him, as Mr. Ronald C. Davison has put it, "maintenance

[17] Senate Finance Committee, *Report on the Social Security Bill*, *op. cit.*, p. 27.

[18] See particularly the series of monographs of the Industrial Relations Counselors on unemployment compensation abroad; Hill and Lubin, *The British Attack on Unemployment* (Washington, 1934); and the Royal Commission on Unemployment Insurance, *Final Report*, Cmd. 4185 (London, 1932).

[19] See Sir William Beveridge, *Unemployment; A Problem of Industry* (London, 1929), *passim*.

is not enough."[20] Unemployment benefits for a limited period of time give the worker the opportunity to look around and seek employment in his particular trade and at the customary rate of wages. It protects him and his family from the degrading influence of public relief. It would not be desirable, however, even if it were financially possible, to continue paying benefits for an indefinite period of time. If a worker has remained continuously unemployed for a long period, it may be necessary for him to change his occupation or his residence in order to secure employment, and continued benefits might cause him to remain in a district or an occupation in which he has little possibility of securing employment. After a long period of unemployment, training in a new occupation, or rehabilitation, may be necessary. Unemployment compensation should not operate to perpetuate over-population of declining industries or areas.

Unemployment Compensation Abroad. Unemployment benefits have been paid by a few trade unions for over a hundred years in this country and in Europe, but as such were always limited to only an insignificant part of the working population. The Royal Commission on Poor Laws in England (1909) found that the recipients of poor relief were principally common laborers and casual workmen, with practically no members of trade unions which provided unemployment benefits. The Commission reasoned that if unemployment benefits could be extended to a larger part of the working population the necessity for poor relief would be greatly lessened, and hence recommended governmental subsidies to extend and promote unemployment benefits.

The first public provisions for unemployment benefits were made by a number of cities in Switzerland and Germany from about 1890, with municipal subsidies to trade unions maintaining unemployment benefits.[21] A number of cities set up municipal unemployment benefit systems for non-union workers, but these were abandoned within a few years because they attracted only the bad risks and proved to be impracticable.

England was the first country which created a compulsory unemployment compensation law upon a national basis (in 1911), with an unemployment compensation law covering some 2,225,000

[20] *The Unemployed* (1929), Chap. 7.

[21] See Industrial Relations Counselors, *An Historical Basis for Unemployment Insurance* (Minneapolis, 1934).

of the 13,000,000 wage-earners who were insured under health insurance adopted at the same time. The act applied only to four industries particularly selected for the experiment. In the course of the debates on the bill, Winston Churchill, the Home Secretary, said:

> Those are the trades whose unemployment when it occurs is exactly that kind of unemployment which can and should be remedied by a system of insurance. I mean they are not decaying trades, they are not overstocked trades, they are not congested with a surplus or an insufficient supply of labour, but they are trades whose unemployment is due not to a permanent contraction but to a temporary oscillation in their range of business in which unemployment insurance is marked out as the scientific remedy for unemployment.[22]

During the World War, the act was extended to munition workers, and in 1920 it was extended to cover practically all industries and trades.

Unemployment compensation has been adopted very widely in industrial countries throughout the world since 1911, as the following tables indicate:

COUNTRIES WITH COMPULSORY UNEMPLOYMENT COMPENSATION LAWS[23]

Country	*Date of Adoption*
Australia (Queensland)	1922
Austria	1920
Bulgaria	1925
Germany	1927
Great Britain and Northern Ireland	1911
Irish Free State	1920
Italy	1919
Poland	1924
Switzerland (13 cantons)	1925
United States (Wisconsin)	1932

COUNTRIES WITH VOLUNTARY UNEMPLOYMENT COMPENSATION LAWS

Belgium	1920
Czechoslovakia	1921
Denmark	1907
Finland	1917
France	1905
Netherlands	1916
Norway	1915
Spain	1931
Sweden	1935
Switzerland (11 cantons)	1924

[22] Quoted in *Report of the Royal Commission on Unemployment Insurance* (1932), p. 12.

[23] From *Report to the President of the Committee on Economic Security* (1935), p. 63.

Unemployment Compensation Plans in the United States. In the United States, only one state—Wisconsin—had adopted an unemployment compensation law prior to 1935, although many state legislatures had considered such legislation. A number of states had previously appointed special commissions to investigate the problem and to make recommendations, and most of these reported in favor of state action. The movement for unemployment compensation gained little headway owing to the opposition not only of employers, but of organized labor as well. In 1932, Wisconsin, which had considered similar legislation since 1920, enacted the first public unemployment compensation law in this country, and in the same year the American Federation of Labor reversed its previous position and adopted a resolution in favor of unemployment compensation. Opposition to unemployment compensation declined as the depression set in, with extremely heavy unemployment, followed by unprecedented unemployment relief. By 1934, public sentiment had apparently changed greatly, with substantial support of unemployment compensation even in conservative circles.

It was a foregone conclusion that the President's Committee on Economic Security would submit to Congress some proposal for unemployment compensation. The work of the Committee and its staff centered around the issue of a federal versus a state system, or some combination of the two, and on the details of a plan. While the President, in his message to Congress on June 8, 1934, had stated that he favored coöperative federal-state action for economic security, the way was left entirely open to the Committee to make such recommendations as it saw fit. After considerable discussion, a program which involved state legislation and administration, but with assistance and some supervision from the federal government, was adopted. A majority of the experts favored a national plan, on the ground that industry is on a nationwide basis, so that a system of social insurance should not be hedged about by state boundaries. They looked with apprehension upon the multiplicity of state plans which would be enacted into law by the forty-eight state legislatures, and were afraid that state administration might be political and incompetent.

On the other hand, the advocates of some form of combined federal-state program opposed a national system largely on constitutional grounds, doubting whether the federal government

could validly set up an unemployment compensation system for employees generally.[24] They maintained that it would be safer to limit federal legislation to that necessary to encourage and protect the states in setting up unemployment compensation plans, and to utilize the police power of the states in the actual provision of unemployment compensation. It was pointed out that in order to administer an unemployment compensation plan it is necessary to secure reports and information from employers about the discharges, trade disputes, and other matters relating to the eligibility of an applicant for benefits, which could hardly be required as incidental to the collection of a federal tax. Many states were ready to go ahead with state unemployment compensation legislation. Governor Lehman of New York placed this at the top of his legislative program for 1935. The enactment of a federal plan, which might later be held unconstitutional, might delay the movement for a number of years. In the meantime, with an upturn in business, the movement for unemployment compensation might decline and legislation might be still further postponed.

Legislation of this kind has always been regarded as within the province of the states. Certainly no one would have suggested until within recent years that there was any possibility of federal legislation on the subject. The decisions of the Supreme Court in the National Recovery Administration and the Agricultural Adjustment Administration cases indicate that these doubts were justifiable. Whether or not the provisions of the Social Security Act relating to unemployment compensation will be upheld remains to be seen. Even if they are held unconstitutional, many states will have enacted state legislation in the meantime, and the framers of the federal act believed that once a state has instituted a system it will not repeal it. It should be noted, however, that the acts of a number of states are conditional upon the operation of the federal law, and consequently would cease to be effective if the federal act were held invalid. Such provisions have been incorporated in the laws of Massachusetts and Oregon.

An issue which the staff and advisory committees of the Committee on Economic Security debated at great length, but which attracted practically no attention in Congress, was the relative merits of the tax-credit and the tax-refund devices.[25] Under the

[24] See E. E. Witte, "Balance of Power," *State Government*, May, 1935.

[25] See the Report of the Advisory Council, Senate Finance Committee, Hearings,

tax-credit device, employers are given credit against their federal tax for contributions made to a state unemployment compensation plan. Under the tax-refund device, the federal government collects the entire tax, but makes a grant or refund of the amount collected within each state to that state, provided it sets up an unemployment compensation plan. In either case, the state unemployment plan must conform to the conditions imposed in the federal act. Those favoring the tax-credit device, which was adopted, thought it preferable because under that plan the state laws would "stand on their own feet," since the states would necessarily levy contributions, instead of merely providing benefits from funds received from the federal treasury. If the federal act were set aside, the state laws would still stand. It was believed also that difficulties would be encountered under the tax-refund plan in permitting employers with separate reserve accounts to reduce or discontinue contributions after building up the specified reserve.

The considerations advanced in favor of the tax-refund, or grant-in-aid, type of act were: (1) it would facilitate the requirement of minimum federal standards and provide stronger federal supervision; (2) it would stand a better chance of being upheld by the courts, since grants-in-aid are well accepted under our constitution; and (3) it would lend itself more readily to changing over to a national plan if that became advisable. The real difference between the two plans was as to the amount of federal supervision to be authorized. Those favoring the tax-refund, or grant-in-aid, plan wanted to see strong federal supervision and minimum national standards, which they were afraid would not be constitutional if provided under the tax-credit plan. It was supposed that any conditions thought desirable could be imposed under grants-in-aid to the states.

This issue was not raised in Congress, which was very strongly opposed to federal supervision or standards. As a matter of fact, both devices were used in the bill as finally passed. The federal pay-roll tax levied on employers provides a credit against the tax (up to ninety per cent) for payments made in approved state unemployment compensation plans. In addition, provision is made for grants to the states to cover administrative expenses. These

op. cit., p. 226; Report of the Technical Board, *ibid.*, p. 329; a statement in favor of the grant-in-aid plan by Frank P. Graham, *ibid.*, p. 335; and the testimony of William Green, *ibid.*, p. 115 *et seq.*

grants are expected practically to equal the receipts into the federal treasury from the ten per cent of the pay-roll tax against which credit is not allowable for contribution to state unemployment compensation funds. They are to be made to states which meet specified conditions set forth in the bill. These two provisions, one for allowance of credit against the federal tax, and the other for grants to cover administrative expenses, provide adequate sanctions for such conditions and standards as Congress may see fit to impose. Congress, however, instead of providing minimum standards and substantial federal administrative supervision, left the states free to adopt the type of unemployment system which they desire, to set up whatever standards of benefits they think appropriate, and to determine how their system shall be administered, subject only to a few more or less obvious conditions.

Summary of the Provisions of the Federal Social Security Act Relating to Unemployment Compensation. The Social Security Act contains two separate titles designed to enable states to enact unemployment compensation laws. Title IX levies a tax on employers of eight or more persons at the rate of three per cent of the annual pay-roll (one per cent in 1936, and two per cent in 1937), and permits employers to credit against this tax contributions which they have made to approved state unemployment compensation plans. In order that a state unemployment compensation plan be approved by the Social Security Board, it must meet the following conditions: (1) benefits must be paid through public employment offices or other agencies approved by the Social Security Board; (2) benefits must not be paid during an initial period of two years while the reserve fund accumulates; (3) all moneys in the state fund must be deposited in the Federal Unemployment Trust Fund, from which they may be withdrawn as needed; (4) the state fund must be used exclusively for the payment of benefits; (5) the state plan must not deny benefits to an otherwise eligible individual for refusing to accept new work under the following conditions: (a) the position is vacant due to a strike, lockout, or trade dispute; (b) the wages or other conditions of work are substantially less favorable to the individual than those prevailing for similar work in the locality; and (c) the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization; and (6) the state

law must contain a provision reserving the right of the state to repeal or amend the law [Sec. 903(a)].

It will be noted that these conditions for credit against the federal pay-roll tax leave the states free to adopt the type of plan which they see fit, as well as the conditions of eligibility, the scale of benefits, and other parts of an unemployment compensation plan.[26] Other sections of the Social Security Act permit the states to adopt the employer-reserve type of law and merit ratings, providing "additional" credits to employers when they are permitted to reduce their contributions under the state laws. The federal policy was to permit wide experimentation by the states, which was believed particularly desirable at the outset.[27]

This policy of relatively few standards or conditions in the federal act has been strongly criticized.[28] The position of the Administration, however, was that it would be unwise, for constitutional as well as other reasons, to attempt to write the specifications for state unemployment compensation laws into the federal act, and that only a few essential conditions should be required for credit against the federal tax. The original bill, however, granted adequate powers to the federal board in charge to require a high standard of administrative efficiency in the management of state unemployment compensation funds, comparable to that now exercised by the United States Bureau of Public Roads in connection with federal aid for highways.

The part of the act which provides federal grants to the states for administrative expenses of unemployment compensation plans contains another set of conditions, overlapping somewhat those enumerated above. These require the state agency to: (1) make reports to the Social Security Board, (2) supply information upon request on the status of insured persons to federal officers in charge of public works, (3) provide persons denied benefits an opportunity for a fair hearing before an impartial tribunal, and (4) adopt "such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be reasonably calculated to insure full pay-

[26] At this writing (March, 1936), all state laws except that of Utah have been approved.

[27] See *Report to the President of the Committee on Economic Security*, p. 20.

[28] See particularly the testimony of Paul Kellogg, editor of *The Survey*, and William Green, president of the American Federation of Labor. Senate Finance Committee, *Hearings*, *op. cit.*

ment of unemployment compensation when due" (Sec. 303). The provision that the Social Security Board may not make any requirements or set any standards with respect to personnel materially limits its supervisory authority over the states. No such provision is made in any other recent federal aid legislation, but on the contrary the federal agency in charge has been given specific authority to maintain personnel standards.

The administration of the parts of the act relating to unemployment compensation is placed under the Social Security Board, a new independent agency, which also has charge of federal old-age benefits (contributory annuities) and grants-in-aid for old-age assistance, aid to dependent children, and pensions for the blind. In the original bill, this board was placed in the Department of Labor, but in the House bill it was made independent. The Senate amended the bill so as to place the board in the Department of Labor, but later receded, and the act as passed placed the board outside of the Department of Labor.

Summary of State Unemployment Compensation Laws. By the end of 1935, nine states and the District of Columbia had enacted unemployment compensation laws.[29] Two of these acts provide for the employer-reserve type of law—Wisconsin and Utah; six provide for a state pooled fund—Alabama, District of Columbia, Massachusetts, New Hampshire, New York, and Washington; while California and Oregon adopted the pooled fund type of law, but permit individual employers or groups of employers under specified conditions to set up individual reserve funds. The coverage of these laws varies considerably. The District of Columbia act applies to employers having one or more employees; the laws of New Hampshire, New York, Oregon, and Washington apply to employers of four or more persons; and the remaining laws apply to employers of eight or more persons, as in the federal pay-roll tax.

Employee contributions are required in only five states—Alabama, California, Massachusetts, New Hampshire, and Washington. The rate of employee contributions in these states is fixed at

[29] The states, in chronological order, are: Wisconsin, 1932 (special session), Chap. 20; Washington, 1935, Chap. 145; Utah, 1935, Chap. 38; New York, 1935, Chap. 468; California, 1935, Chap. 352; New Hampshire, 1935, Chaps. 99, 142; District of Columbia, 1935, 74th Cong., Public No. 319; Alabama, 1935 (special session), Chap. 447; Oregon, 1935 (special session), House Bill No. 71. (Since the above was written, two additional states—Indiana and Mississippi—have enacted legislation.)

one per cent of wages in all states except Massachusetts, where, beginning in 1938, it is to be fifty per cent of the rate required of the employer. California, New Hampshire, and Massachusetts provide lower rates of contribution of employees for the first one or two years, and also provide that employee contributions shall not exceed fifty per cent of the rate required of their employers. The rate of contribution required of employers in New York, New Hampshire, and the District of Columbia is one per cent of pay-roll in 1936, two per cent in 1937, and three per cent thereafter; while Alabama, California, Massachusetts, and Oregon levy only exactly the rate which may be credited against the federal tax—that is, .9 per cent in 1936, 1.8 per cent in 1937, and 2.7 per cent thereafter.

Provision for individual, or "merit," rating of employers and adjustment of contribution rates according to experience, beginning in 1941, is definitely made in all states with the state pooled fund plan except New York, where this decision is left to future legislative action. A minimum employer contribution rate of one per cent, however, is provided in California, Massachusetts, and New Hampshire; one and one-half per cent in Alabama and the District of Columbia; two per cent in Washington; and .7 per cent in Oregon. A maximum rate of four per cent is provided in Alabama, Wisconsin, and the District of Columbia. Only the District of Columbia provides for a contribution to the unemployment fund by the government.

In all states, unemployment benefits are payable only to involuntarily unemployed workers with a record of recent employment in insured occupations. Alabama, Oregon, and Washington require twenty-six weeks of employment within the previous year, or forty weeks within the previous two years, while Massachusetts and New York require ninety days of employment within the previous year, or 130 days within the previous two years. Unemployment due to a trade dispute is not compensatable in any state, and unemployment due to voluntary quitting is usually compensatable only after an additional waiting period of six weeks. Similarly, refusal to accept new employment disqualifies the worker for a penalty period, which is usually charged against his weeks of previous employment as though benefits were paid, except employment available because of a trade dispute or at wage rates substantially less than those prevailing in the community.

Claimants for benefits must register at the public employment

office, and may qualify for benefits only if no employment can be found for them. The claims procedure varies widely in the several states, and no attempt is made here to summarize it.

Unemployment benefit rates are uniformly fixed at fifty per cent of regular wages, without any allowance for dependents, except in the District of Columbia, which provides forty per cent benefits, but allows an additional ten per cent for a dependent wife and five per cent additional for each dependent relative up to a maximum of sixty-five per cent of regular wages. Maximum weekly benefits are fixed at $15 in all states except Utah, which fixes the maximum at $17 weekly. Minimum full-time weekly benefits are fixed at $5 in New York, Massachusetts, and Wisconsin, at $6 in Utah, and at $7 in California and Oregon. Benefits are to be paid for partial unemployment in all states except New York and Utah.

A three-week waiting period before benefits are payable is required by six states.[30] Three states require a longer waiting period,[31] and one state less.[32] Benefits are limited to a maximum of sixteen weeks within any year in most states.[33] In all laws the benefit period is also limited by the provision of a specified ratio of weeks of benefit to weeks of previous employment. The most common provision is that one week of benefit may be paid for each four weeks of employment during the preceding two years not previously counted.[34] Several states provide "additional benefits" to workers with long records of employment.[35]

The state industrial commission or labor department is placed in charge of the administration of unemployment compensation in New Hampshire, New York, Utah, Wisconsin, and Oregon; while special commissions are created in the other states and the District of Columbia. In practically all states, the administration of the public employment offices is to be integrated closely with that of unemployment compensation.

[30] Alabama, District of Columbia, New Hampshire, New York, Wisconsin, and Oregon.

[31] Massachusetts (4 weeks), Washington (6 weeks), California (4 weeks in 12 months during 1938–39; thereafter 3 weeks in 12 months).

[32] Utah (2 weeks).

[33] Alabama, District of Columbia, Massachusetts, New Hampshire, New York, and Utah.

[34] Alabama, California, Massachusetts, New Hampshire, Oregon, and Washington.

[35] Alabama, District of Columbia, Massachusetts, New Hampshire, and Washington.

SECURITY AGAINST DEPENDENCY IN OLD AGE

A second major cause of insecurity dealt with by the social security program is dependency in old age. Population studies indicate that the number of aged in our population has been increasing at a rate faster than the total population for the last seventy-five years and will continue to increase throughout the present century. As the following table indicates, in 1900 persons sixty-five years of age and over in the United States numbered slightly over 3,000,000. By 1930, this number had more than doubled, reaching approximately 6,634,000, and it is estimated that it will double again by 1960. While the total population of the country is now increasing at a much slower rate than in previous decades, and is expected to become stationary within a few decades, the aged in the population will continue to increase throughout the century.

ACTUAL AND ESTIMATED NUMBER OF PERSONS AGED 65 AND OVER COMPARED TO TOTAL POPULATION, 1860 TO 2000[36]

Year	*Number aged 65 and over (in thousands)*	*Total population (in thousands)*	*Per cent aged 65 and over*
1860	849	31,443	2.7
1870	1,154	38,558	3.0
1880	1,723	50,156	3.4
1890	2,424	62,622	3.9
1900	3,089	75,995	4.1
1910	3,958	91,972	4.3
1920	4,940	105,711	4.7
1930	6,634	122,775	5.4
1940	8,311	132,000	6.3
1950	10,863	141,000	7.7
1960	13,590	146,000	9.3
1970	15,066	149,000	10.1
1980	17,001	150,000	11.3
1990	19,102	151,000	12.6
2000	19,338	151,000	12.7

With this great increase of the aged in our population has come an even more striking increase in the percentage of aged persons who are dependent. No accurate statistics are available on the amount of dependency in old age; but according to studies made by insurance companies, a very small percentage of persons reaching the age of sixty-five are financially independent. The Federal

[36] *Report to the President of the Committee on Economic Security* (1935), p. 68, table 13.

Emergency Relief Administration estimated that 700,000 persons over sixty-five years of age were receiving relief in 1934.[37] In addition, approximately 180,000 persons were receiving state old-age assistance grants at the end of 1934.[38] The number of persons over sixty-five years of age receiving other public relief is not definitely known, but it may be estimated that approximately a million were receiving public relief in one form or another in 1934. Pre-depression studies of old-age dependency in a number of states, based upon sampling surveys, indicated that nearly fifty per cent of the aged population had less than a subsistence income; and from thirty to fifty per cent were found to be dependent upon relatives or friends.[39] It is well known that dependency among the aged has greatly increased during the depression. The Committee on Economic Security estimated that fifty per cent of the persons in this country over the age of sixty-five are dependent upon relatives, friends, or the public for support.[40]

Statistics on the percentage of the total population in the eligible age groups receiving old-age pensions in foreign countries having such systems indicate that a very large percentage of persons qualify for aid. In England, the number of persons over seventy years of age qualifying had reached 72.6 per cent of those over this age in 1927, when the contributory old-age pension system was adopted. Since 1927, all persons who have received contributory old-age pensions prior to the age of seventy are automatically placed on the non-contributory pension rolls at the age of seventy, and the percentage of persons over seventy years of age receiving pensions has increased. The percentage of pensioners to the number within the eligible age group in other countries having non-contributory old-age pension plans was as follows:

Country	*Year*	*Per cent of pensions to total population within age limit*
Australia	1932	36.1
Denmark	1932	37.3
New Zealand	1933	32.1
Union of South Africa	1933	20.3

[37] *Ibid.*, p. 24.

[38] For detailed statistics on state old-age pensions in 1934, see Florence E. Parker, "Experience under State Old-Age Pension Acts in 1934," *Monthly Labor Review*, Aug., 1935.

[39] Such studies were made in Wisconsin (1915), New York (1929), and Connecticut (1932). [40] Committee on Economic Security, *Report*, *op. cit.*, p. 24.

Although old-age pensions have been in operation in Canada only since 1927, by 1934 the number of pensioners ranged from twenty-six per cent of the population over seventy years of age in Prince Edward Island to forty-nine per cent in Saskatchewan. Of the seven provinces (omitting the Northwest Territories) having old-age pensions, four had a percentage exceeding forty.[41] Judging from experience abroad, the consulting actuaries of the Committee on Economic Security estimated that fifteen per cent of the persons over sixty-five years of age would qualify for old-age pensions in 1936; twenty per cent in 1937; twenty-five per cent in 1938; thirty per cent in 1939; thirty-three per cent in 1940; and the rate would continue to increase thereafter at one per cent annually to a maximum of fifty per cent in 1957 and subsequent years.[42]

Dependency among the aged has increased markedly with the growth of industrialization and urbanization of society. The industrial worker finds it increasingly difficult to secure employment after forty years of age. Detailed studies indicate that persons past middle age are able to retain employment, but if they are displaced they find it much more difficult than younger persons to secure new employment. Many employers have adopted a policy of refusing to employ older persons. Many aged workers who have lost their employment during the depression will never be able to secure regular employment again. Millions of family heads approaching old age have had their life-time savings wiped out during the depression and face old age with uncertainty and dread. These are some of the more important factors which have greatly increased the problem of dependency in old age—a problem which, with the great increase in the number of the aged, is certain to loom large in the future. There is a growing belief that society, because of technological advances, can well afford to pension its aged members and retire them from the labor market, thus enabling younger workers to find employment.

Spread of State Old-Age Assistance (Pension) Laws. To cope with this increasing problem of dependency in old age, the movement for free old-age pensions, or old-age assistance, has received very wide public support. (To avoid confusion, free old-age pensions are referred to hereafter as old-age assistance.) The social security

[41] These figures are taken from special studies of the staff of the Committee on Economic Security.

[42] See Senate Finance Committee, *Hearings*, *op. cit.*, p. 250.

program makes two provisions for old-age security: (1) federal grants-in-aid to states for state old-age assistance plans; and (2) a federal old-age insurance plan applying to all employees except those in exempted occupations such as agriculture, domestic servants, and others.

The movement for state old-age assistance laws has spread very rapidly in the United States since the first law (Montana) was enacted in 1923. By the end of 1934, twenty-nine states had enacted such laws, and during 1935 ten others enacted new laws, besides still others which amended their laws or adopted new ones to conform to the conditions set forth in the pending federal Social Security Act. At the present time, outside of the South, only the states of Kansas and South Dakota have no old-age assistance legislation. Despite the widespread adoption of old-age assistance laws, few states have actually paid old-age assistance to any appreciable number of aged persons. Only seven states in 1934 spent more than one million dollars each, including local expenditures, for the purpose. These were Massachusetts, New York, New Jersey, California, Colorado, Indiana, and Ohio. The total amount expended by the state and local units of government for the purpose was approximately thirty-two million dollars in 1934.[43] The number of pensioners at the end of the year was 236,205, or more than double the number at the beginning of the year, and the average amount of the monthly assistance grant was $14.68. Massachusetts paid the largest average grant of $26.08; New York, Pennsylvania, California, and Wisconsin each paid an average grant of approximately $20; while thirteen states paid less than $10. North Dakota was at the bottom of the list with an average of less than one dollar a month. The percentage of persons in the eligible age group receiving assistance was very low in many states with recent laws as well as in states with voluntary laws. In New York and Massachusetts, where old-age assistance was state-wide in operation and had been paid for several years, the percentage of pensioners to the total population of the pensionable age was 13.9 and 13.7 respectively. Several states paying very small monthly grants showed a higher percentage.

These statistics indicate that a wholly insufficient amount of public funds has been available for old-age assistance. Three times

[43] This figure and following statistics on the operation of state old-age assistance laws are taken from Florence E. Parker, *op. cit.*

as many dependent aged persons were taken care of in 1934 through unemployment relief as through old-age assistance. The financial difficulties which have confronted state and local units of government have made it impossible for them adequately to provide for their needy aged. Despite the financial stringency within recent years, the total number of pensioners has increased at a very rapid rate, more than doubling within the single year 1934, and the total expenditure for this purpose has also increased during the depression, as the following table indicates:

EXPENDITURES FOR OLD-AGE ASSISTANCE IN THE UNITED STATES

Year	*Amount*
1930	$ 1,800,458
1931	16,258,707
1932	25,116,939
1933	26,167,017
1934	32,313,515

In 1933, when we were spending in this country $26,000,000 for old-age assistance, Great Britain spent nearly $400,000,000 for the aged through non-contributory and contributory pensions.[44] In order to provide as adequately as Great Britain for the aged, we should have to spend annually about $1,200,000,000 for the purpose.

Summary of the Provisions of the Social Security Act Relating to Old-Age Assistance. The social security program provides for federal aid to the states for old-age assistance, thus establishing a policy of federal coöperation and responsibility for this type of relief upon a permanent basis. Federal aid equal to fifty per cent of the total payments, but not to exceed $15 a month per person, is provided under the following conditions specified in the Social Security Act: (1) the state plan must be state-wide in operation; (2) there must be some financial participation by the state; (3) a single state agency must be established or designated to administer or supervise the administration of the plan; (4) the state plan must provide "such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the [Social Security] Board to be necessary for the efficient operation of the plan"; (5) reports must be made to the federal agency; (6) a fair hearing before the state agency must be given to

[44] *Abstract of Labor Statistics of the United Kingdom.*

persons who have been denied assistance; (7) state residence requirements may not exceed five years within the last ten years, and only one year of residence immediately preceding application may be required; (8) no citizenship requirement which excludes any citizen of the United States, as, for example, the requirement that an applicant must have been a citizen for a period of years, may be made; (9) an age limit of not more than seventy years until 1940, and not more than sixty-five years after 1940, may be provided; and (10) if the state recovers from the estate of a recipient, one-half of the amount recovered must be paid to the United States government (Sec. 2).

Thirty-two states have already (May 26, 1936) qualified for federal aid for old-age assistance.

In contrast with other federal-aid legislation, the allotment to each state for old-age assistance is not based upon population, road mileage, or some similar formula, but will amount to one-half of the total state expenditure, subject to the maximum limit of $30 a month per person. This policy, which also applies to federal aid for pensions for the blind and aid for dependent children, is entirely new in federal aid legislation in this country, although the same principle is in use in connection with old-age assistance in New York and in some other states. It should be noted that the wealthier states will receive the larger relative proportions of federal aid, because they will be able to provide the larger amounts of state and local funds for this purpose, while the poorer states will receive a smaller proportional share. This policy will give rise to criticism in the future, and it may be anticipated that some equalization feature will be proposed. It is interesting to note in this connection that grant-in-aid legislation in England has been revised and an equalizing formula adopted which includes such factors as the number of children under five years of age, ratio of population density to road mileage, and per capita assessments.[45]

The conditions imposed upon state old-age assistance plans by the Social Security Act are designed to bring about a liberalization of the state laws. This is particularly true of residence requirements. Generally, state laws have required long periods of residence within the state, and sometimes within a county. One state has required a residence of thirty-five years within the state. Under a system of

[45] From a forthcoming volume by Professor Mabel Newcomer on grants-in-aid in Great Britain.

federal aid, so excessive a residence requirement is obviously inappropriate. The Social Security Bill as introduced gave the federal agency authority to pass upon the adequacy of state old-age assistance grants, but this provision was stricken out by Congress.[46]

The original bill provided also that the state plan must insure "methods of administration which are approved by the [federal] administrator" (Sec. 4). This provision was designed to give the federal agency adequate supervisory powers to assure that federal funds for this purpose were wisely spent. This section was amended to read, "methods of administration (*other than those relating to selection, tenure of office, and compensation of personnel*) . . ." (Sec. 2). Congress apparently regarded the requirement that the state and local governments pay half the cost as an adequate safeguard against waste and poor administration. Whether this policy is sound, only time will tell. Already the administration of old-age assistance has been criticized severely by local surveys in Ohio and Indiana.[47]

OLD-AGE INSURANCE

A second provision for old-age security in the Social Security Act is the creation of a national old-age insurance plan. The framers of the act recognized that old-age assistance, while superior to ordinary public relief or institutional care for the aged, is nevertheless a form of public charity and far from an ideal solution of the problem of old-age security. An old-age insurance system which would furnish the wage-earner and his wife with an income sufficient to provide some of the comforts of life, rather than a bare subsistence, is obviously much to be preferred. Under such a plan, which really amounts to a nation-wide retirement system for employees generally, the employee sets aside a part of his wages each month to build up a retirement annuity, and his contributions are matched by his employer. This plan is in effect a system of compulsory savings, or the spread of wages over the life-time of the individual rather than over his period of working years. A fundamental principle of the plan is that of establishing the responsibility of employers to make provision for the retirement of their employees,

[46] See above.

[47] See *Ohio State Government Survey*, directed by Colonel C. O. Sherrill, section on Division of Aid for the Aged (1935) (mimeographed); and *Statistical Analysis of Old-Age Pensions in the State of Indiana* (November, 1934), by the Indianapolis Chamber of Commerce (mimeographed).

and hence to contribute equally with the employees to build up a fund for that purpose.

Industrial Pension Systems. The need for some systematic provision for retirement has been recognized by many private employers who have set up voluntary retirement systems. The number of employees affected by such private pension plans in 1930 was approximately 3,500,000.[48] Within recent years there has been an unusually rapid growth in the number of plans adopted, but the number of employees affected is probably smaller today than in 1930, because most of the new plans have been adopted in companies of relatively small size, while employment in the larger companies having retirement plans has materially declined. The staff of the Committee on Economic Security believed that there was little promise for significant expansion of voluntary systems to cover a materially larger number of the wage-earners in the country in the future. Hence it was felt necessary to set up a compulsory public system.

The terms of private retirement systems are such as very greatly to limit the protection afforded. Speaking generally, the employee must have attained the age of sixty-five and have completed a minimum of twenty to twenty-five years of continuous service to the company. Under these conditions, only a relatively small percentage of the employees covered under voluntary pension plans ever qualify for retirement. It was estimated that in 1933 the maximum number of annuitants under industrial pension plans was 165,000, or four per cent of the persons of sixty-five years of age and over who had spent their lives in industry.

Insurance or Assistance for the Aged. It was recognized by the framers of the Social Security Act and by Congress that without a compulsory old-age insurance system the cost of gratuitous old-age pensions would probably become enormous in the future. Experience abroad indicates that as time goes on a very large percentage of aged persons will qualify for free old-age pensions.[49] A formidable public movement has been aroused in support of large old-age pensions without any means test, and pressure will be exerted on Congress and local units of government continuously for the payment of larger pensions and for the elimination or weakening of the requirement that the aged individual must be needy

[48] Murray W. Latimer, *Industrial Pension Systems* (New York, 1933).
[49] See above.

and without means of support. The problem of veterans' pensions may become insignificant in comparison with pensions for all aged persons in the future.[50]

In recognition of this problem, with its large political and economic implications, a plan for a national old-age insurance scheme received support in Congress. The actuaries of the Committee on Economic Security estimated that without an old-age insurance scheme the cost of old-age assistance would continue to mount in the future, reaching a total cost of over two billion dollars annually by 1960.[51] This estimate was based upon the assumptions that old-age assistance will be limited to persons who are in actual need and that by 1957 and thereafter, fifty per cent of the persons over sixty-five years of age will qualify to receive an average monthly grant of $25. If old-age assistance is paid, without a means test, to virtually all persons over sixty-five years of age, and in larger average amounts than $25 per month, the future cost would be very much greater than the above estimate. Such an outcome is not altogether unlikely. The future burden of old-age assistance on the taxpayers, and indirectly its effect upon other services of government, which may have to be reduced in order to make possible large expenditures for old-age assistance, constitutes a serious problem. By the institution of a national system of compulsory old-age insurance, the future cost of old-age assistance will be greatly reduced. With a national compulsory old-age insurance system in effect, the actuaries of the Committee on Economic Security estimated that the cost of old-age assistance would reach a total of slightly over one billion dollars by 1950 and remain fairly constant thereafter. Expenditures for old-age assistance will continue, even after the national old-age insurance system becomes fully effective—since many persons will not be covered by the latter scheme—but will eventually show a decline. Since the 25,000,000 workers covered under a system of old-age insurance, paying for their own retirement allowances out of wages, will not look with favor upon demands for large old-age assistance grants, an old-age insurance plan will constitute a very great protection against extravagant old-age assistance.

Summary of the Old-Age Insurance Provisions of the Social Secur-

[50] See a Public Policy Pamphlet of the University of Chicago on the Townsend old-age pension plan, February, 1936.

[51] See Senate Finance Committee, *Hearings*, *op. cit.*, p. 250.

ity Act. Under Titles II and VIII of the Social Security Act, a system of old-age insurance is set up to apply to all employees except in the following occupations: (1) agricultural labor, (2) domestic service in a private home, (3) casual labor, (4) public employees, (5) employees of religious, charitable, educational, scientific, and literary organizations, and (6) employees of vessels.

In order to qualify for annuities, an insured employee must have been employed under the system over a period of five years, although there is no requirement as to the length of employment within each of the five years. He must have received total wages of at least $2,000. Persons who are unable to qualify under these conditions are entitled to receive a refund. The scale of federal old-age benefits, payable to employees who have retired from regular occupations, is determined in relation to the total wages which have been received while under the system, and consequently to contributions. The size of the monthly annuity is determined by the following formula: (a) first $3,000 of total wages received—$\frac{1}{2}$ per cent; (b) next $42,000—$\frac{1}{12}$th per cent; (c) for all additional wages —$\frac{1}{24}$th per cent (Sec. 202). This formula provides an unearned annuity for persons who are under the plan less than the normal period of working years, and hence gives some recognition for past service to persons who enter the system at the outset and who are already middle-aged or are approaching old age. The following table illustrates the monthly annuities which will be paid under the plan:

ILLUSTRATIVE MONTHLY BENEFITS UNDER THE SOCIAL SECURITY ACT[52]

Average monthly salary (dollars)	*Years of Employment*				
	5	*10*	*20*	*30*	*40*
50	$15.00	$17.50	$22.50	$27.50	$32.50
100	17.50	22.50	32.50	42.50	51.25
150	20.00	27.50	42.50	53.75	61.25
200	22.50	32.50	51.25	61.25	71.25
250	25.00	37.50	56.25	68.75	81.25

To support this scale of annuities, contributions are required of employees and employers covered under the system, beginning at the rate of one per cent each in 1937 and increasing by one-half per cent increments every three years until the maximum rate of

[52] Senate Finance Committee, *Report on the Social Security Bill, op. cit.*, p. 8.

three per cent each is reached in 1949.[53] The original Social Security Bill provided for lower rates of contribution, starting at one-half per cent each upon employer and employee and increasing at five-year intervals to a total of two and one-half per cent each in 1957. Under this plan, a federal subsidy of over a billion dollars annually would have been required after 1975. The original plan called for a reserve fund of approximately fifteen billion dollars, to be maintained by government contributions when benefit payments exceeded employee and employer contributions. The Administration decided, however, upon further consideration, that it would not take the responsibility for placing this large tax burden upon future generations, and consequently insisted that the plan be made self-supporting. The contribution rates were accordingly revised upward. The liability incurred by the payment of partially unearned pensions to persons who are brought into the system at the outset is placed upon future employers and employees, who will be required to contribute at a total rate of six per cent instead of five per cent, which, except for the partially unearned annuities at the outset, would be sufficient.

The plan involves a large reserve fund, estimated at a total of about forty-seven billion dollars by 1980. Estimates are not projected beyond that date, but presumably the reserve fund would continue to grow for a number of years beyond 1980. This feature of the Social Security Act has received perhaps more criticism than any other. Insurance actuaries and economists assert that it will not be feasible to invest such a large public reserve without serious economic effects.[54] It has been pointed out on numerous occasions that the existence of such a large reserve will constitute a danger in that Congress will be tempted to increase the annuities, not taking into account the fact that the reserves will be needed in the future. The present plan calls for interest payments at the rate of three per cent by the government upon this reserve, which are estimated to amount to $1,400,000,000 by 1980.[55] Critics of the measure stated that the government will not be able to invest this

[53] In the Social Security Act, there is no direct connection between taxes levied for this purpose and the benefits paid to employees who have retired. The taxes are paid into the Treasury, and out of the Treasury appropriations are made to an old-age benefit fund, from which benefits are paid.

[54] See M. A. Linton, "The Quest for Security in Old Age," *Proceedings of the Academy of Political Science*, June, 1935, pp. 101–117.

[55] Senate Finance Committee, *Report on the Social Security Bill*, *op. cit.*, p. 9.

huge reserve to earn three per cent interest, and that the payment of interest will be borne in part by the taxpayer. According to this argument, little will be gained by the accumulation of a large reserve. Insurance experts maintain that a public compulsory old-age insurance system should not be built upon sound actuarial lines but should be paid for currently, without the accumulation of reserves. This, to be sure, is exactly contrary to the principles of sound insurance financing applicable to ordinary insurance enterprises.

Other critics of the old-age insurance provision deplore the lack of any government contribution out of general taxes, pointing out that government contribution is an almost universal feature of old-age insurance abroad.[56] Supporters of the program point out that twelve years will elapse before the maximum rates become applicable, and that within that time very thorough consideration can be given to the problem of reserves and to the need for government contributions. It is believed by many that the rates will never reach the maximum, but will be stopped at two and one-half per cent each upon employers and employees, the government undertaking to make contributions when they become necessary in the future, thereby assuming the liability for the payment of unearned annuities at the outset of the plan. If this is done, the reserve fund will be kept within reasonable bounds.

Senator Clark introduced an amendment on the floor of the Senate which exempted private retirement systems from the compulsory federal plan, provided the annuities paid to employees were equal to those provided in the federal act.[57] Employees were to be permitted to elect whether they would join the private or the government plan, and in case they were discharged before reaching the age of retirement, the employer was required to pay into the federal fund an amount covering service under the private plan. The amendment was vigorously opposed by the Administration on the ground that it would result in adverse selection against the federal fund, which would have to carry the poor risks, while the private plans would secure the preferred risks. It was pointed out that older workers would elect the government plan, and younger workers

[56] See particularly the article by Abraham Epstein, "Our Social Insecurity," *Harper's Magazine*, November, 1935.

[57] The text of the amendment is to be found in the *Congressional Record*, *op. cit.*, p. 9912, and the debate is reported in the following pages.

the private plan. The conference committee deadlocked on the issue for a month, and finally agreed to strike the amendment until further study could be made.

The old-age insurance provisions of the Social Security Act are the most ambitious yet adopted in any country. The administration of the system, involving some twenty-five million workers, will constitute a very difficult problem, particularly during the early years. The amounts of benefits provided are greatly in excess of old-age insurance benefits abroad, and attempt to provide the worker with an income sufficiently large to permit retirement. The burden placed upon employees and employers accordingly is materially larger than abroad. Some anomalies exist in the law, particularly in the manner in which the annuities are to be determined, and will need to be straightened out before benefits become payable. The most serious question concerning this part of the Social Security Act, however, relates to its constitutionality. The principal criticisms against the measure by students of social insurance and by insurance experts is that it is unwise to attempt a self-supporting plan upon a sound actuarial basis. The size of the future reserves is viewed with apprehension. The plan is criticized also because of the absence of government contribution, particularly to pay for the liability of partially unearned annuities at the outset.

MEASURES RELATING TO CHILDREN IN THE SOCIAL SECURITY PROGRAM

In a broad sense, all of the provisions of the Social Security Act have a relation to children. Unemployment compensation, old-age insurance and assistance, and health measures all are designed to provide a measure of security for the wage-earner and all members of his family, young and old. Even provisions for old age have a direct bearing upon children, for the support of dependent aged persons frequently is a heavy burden upon young families maintaining them. The Social Security Act, however, provides federal aid for four activities especially relating to the problems of childhood, as follows: (1) aid to dependent children; (2) maternal and child health measures; (3) child welfare activities; (4) services to crippled children.

The most important of these is the provision for aid to dependent children.[58] The federal government undertakes to pay one-third

[58] Social Security Act, Title IV.

of the total cash payments of public aid for children under sixteen years of age who are dependent by reason of the loss of a parent, and who are living with a relative in a residence maintained as a home. This provision is designed to provide federal aid under the mothers' pension laws now in operation in forty-six states.[59] The purpose of state mothers' aid laws has been to prevent the disruption of young families where the male bread-winner is absent, and, through the provision of a definite grant of public aid on a fairly permanent basis, to enable the mother to keep the family intact and to devote herself to housekeeping and the care of her children. Before the adoption of mothers' pension laws, it frequently happened that where the father of young children was dead, incapacitated, or had deserted the family, the children were taken away from the mother and cared for at greater cost in institutions, or foster homes; or the mother attempted to earn a living for her young family and at the same time maintain her home, frequently with unfortunate results.

While practically all of the states have enacted mothers' aid laws designed to provide a dignified and fairly permanent form of assistance to such families, removing them from the category of ordinary relief cases, many states and local units of government have been financially unable to make adequate provision for this group. In 1934, it was estimated that approximately 109,000 families were receiving benefits under mothers' aid laws, including 280,000 children.[60] The total amount expended in the United States by state and local units of government for mothers' pensions in 1934 has been estimated by the Children's Bureau at $37,400,000. In many states having mothers' pension laws, very meager financial provision has been made. Many counties have discontinued mothers' pensions altogether, and other counties have never operated under the optional state law. In August, 1934, according to estimates made by the Federal Emergency Relief Administration, 358,000 families comprising a widowed, deserted, or divorced woman and one or more dependent children under the age of sixteen years were receiving relief. The number of children under sixteen years of age in these households was estimated at 719,000.

[59] Only Georgia and South Carolina have not enacted a mothers' pension law.

[60] See the testimony of Miss Katherine Lenroot, chief of the Children's Bureau, Senate Finance Committee, *Hearings on S. 1130*, p. 337 *et seq.* See also Miss Lenroot's testimony before the Ways and Means Committee, *Hearings on H. R. 4120*, p. 337 *et seq.*

That this large number of families without a wage-earner was being taken care of by unemployment relief instead of mothers' pensions indicates strikingly the inadequacy of state and local financial provisions for mothers' pensions. The size of the mothers' pension grants also indicates this inadequacy. Statistics of the Children's Bureau for 1933 indicate that six cities were paying average monthly grants per family of $60 to $65 and thirteen cities were paying from $50 to $60. On the other hand, many counties were paying very meager monthly allowances, with an average monthly grant of less than $10 per family.[61]

Federal aid will stimulate states to make more adequate provision under their mothers' pension laws and will relieve them of part of the expense. The state plans must meet the conditions specified in the federal act, which are practically identical with those under the old-age assistance grants, except the provisions relating to age and residence. It is unfortunate that the federal grants are limited to one-third for this purpose, while one-half is paid for old-age assistance. Federal aid is also unfortunately limited to a maximum of $6 per month for the first child and $4 per month for addition children.

The provisions in the Social Security Act for maternal and child health, which are very similar to the provisions of the Sheppard-Towner Act (1923–29), grant federal aid to the states for the extension or improvement of these services. An annual appropriation of $3,800,000 is authorized, to be allotted on the basis of $20,000 to each state, and the remaining amount in proportion to live births and on the basis of need. Statistics indicate a high rate of maternal and infant mortality in connection with childbirth in this country in comparison with other countries and show the need for a renewal of federal aid for maternal and child health work.[62] The conditions imposed upon the states in connection with federal grants-in-aid are very similar to those provided for other welfare activities. Federal aid for this purpose is to be administered by the Children's Bureau.

There is also authorized to be appropriated to the Children's Bureau $2,850,000 annually for federal aid to states for services to

[61] For example, thirty-five counties in Ohio and twenty-one counties in Illinois were granting less than $10 per month per family in 1933. See staff report, Committee on Economic Security, *Security for Children* (unpublished).

[62] See the testimony of Miss Katherine Lenroot, *op. cit.*

crippled children, and $1,500,000 annually for child welfare services. The latter aid is designed to strengthen and to extend such services, particularly in rural areas where either no such service is provided or it is on only an inadequate basis.

HEALTH MEASURES

One of the principal divisions of the staff of the Committee on Economic Security was concerned with the problem of sickness as a cause of economic insecurity. In the report of the Committee it is stated: "Illness is one of the major causes of economic insecurity which threaten people of small means in good times as in bad. In normal times, from one-third to one-half of all dependency can be traced to the economic effects of illness. The money loss caused by sickness in families with less than $2,500 of income per year has been estimated at a total of $2,400,000,000 per annum, of which $900,000,000 represents wage loss and $1,500,000,000 the expenses of medical care."[63]

With the assistance of several advisory committees from the medical profession, the Committee carried on a study of the advisability of some form of health insurance to cover: (1) the loss of wages due to illness, and (2) the expenses of medical care. The medical advisory committees asked for an extension of time, which was granted. To date, no report on this subject has been published. The medical profession, led by the American Medical Association, has been very active in its opposition to any form of health insurance providing for medical services.

While federal legislation on health insurance is apparently indefinitely postponed, the Social Security Act provides federal aid for the strengthening and improvement of state and local public health services, particularly in the areas not now served by full-time health officers. This was regarded as the first step in a health program. Of the 3,000 counties in this country, only 528 have full-time health supervision, and only twenty-one per cent of the local health departments were rated as satisfactory.[64] During the depression, local appropriations for public health measures have been materially reduced.

The report of the Committee recommended an appropriation of $8,000,000 a year to be used for grants-in-aid to the states for the development of adequate public health services, and an additional

[63] P. 38.

[64] *Ibid.*, p. 39.

$2,000,000 to the United States Bureau of Public Health for the investigation of disease and problems of sanitation. While it was recognized that these amounts are very small in relation to the problem of public health service, it was believed that this was as much as could be expended wisely at the present time. These recommendations were followed in the Social Security Act (Title VI). The federal aid to the states is to be allocated under rules and regulations prescribed by the Surgeon-General, after consultation with the state and territorial health authorities. The act states that the amount of the allotment shall be determined upon the basis of (1) population, (2) special health problems, and (3) the financial need of the respective states, but inasmuch as no weighting is given to each of these items, and the last two are very general in character, the actual basis of allotment is left to the regulations of the Surgeon-General. In contrast with other parts of the act, this title gives the federal agency a broad grant of authority.

VOCATIONAL REHABILITATION AND PENSIONS FOR THE BLIND

The Social Security Act extends federal aid for vocational rehabilitation and puts it upon a permanent basis, increasing the amount to $1,138,000 annually in 1938 and thereafter. Federal aid for this purpose is to be granted under the provisions of the previous law relating to vocational rehabilitation.

Under Title X, adopted in the Senate as an amendment, federal funds are provided also to assist the states in paying pensions to the blind. The provisions of the federal act concerning aid to the blind are almost identical with those relating to old-age assistance, except as to age requirements. In 1934, twenty-four states were paying pensions to a total of 31,909 blind persons.[65] The average pension paid was $19.96 a month, and the total payment of all states was $6,880,000. The 1930 census listed 63,489 persons as blind. In six states, the number of blind pensioners in 1934 exceeded the number of blind persons reported by the census.

FINANCING SOCIAL SECURITY

The cost of the social insurance provisions of the Social Security Act is estimated at nearly $3,000,000,000 annually in the future—about the size of the normal budget of the federal government. It is

[65] "Public Provisions for the Blind in 1934," *Monthly Labor Review*, Sept., 1935, pp. 584–601.

expected that the welfare activities included in the act will develop rapidly, and will be in full operation within a few years. The unemployment compensation provisions will, it is assumed, be in full operation as soon as benefits become payable in 1938 and, except for the possible accumulation of reserves, the annual expenditure for this purpose will approximate the contributions received. It is estimated that the three per cent pay-roll tax of the federal government upon employers for this purpose will amount to approximately $825,000,000 in 1938 and increase gradually thereafter.[66] The contributions required under Title VIII from employers and employees to support the old-age insurance plan are estimated at $560,000,000 annually at the outset, increasing with the rising rate of contribution to a total of $1,877,000,000 in 1950, when the maximum rates will be reached.[67] The old-age insurance annuities which will be paid under the act, however, will be very small at the outset and for a number of years to come. The payments for the first fiscal year after annuities become payable are estimated at less than $100,000,000. They will then increase rapidly each year as additional insured persons retire, reaching $500,000,000 annually by 1950. During the following two decades, the annuities payable annually will approximately double in each decade, reaching an estimated figure of $2,300,000,000 in 1970. By 1980, the annuities will have reached a normal load of approximately $3,500,000,000, and increase thereafter will be at a much slower rate. It is very significant that during the first two decades the receipts will greatly exceed disbursements, resulting in the accumulation of a large reserve.

By far the largest expenditure under the grants-in-aid to the states will be that for old-age assistance. The consulting actuaries of the Committee on Economic Security have estimated that the total expenditures (federal, state, and local) for this purpose will increase rapidly during the next few years, and by 1945 will amount to approximately a billion dollars annually. Thereafter, assuming the existence of a compulsory old-age insurance plan, the cost of old-age assistance would remain fairly constant from year to year, and eventually decline.[68] Without a compulsory old-age insurance

[66] Senate Finance Committee, *Report on the Social Security Bill*, *op. cit.*, p. 27. This estimate is based upon a coverage of all employers having four or more employees. The act was later changed to include only employers of eight or more, which would reduce this estimate.

[67] *Ibid.*, p. 26.

[68] Senate Finance Committee, *Hearings*, *op. cit.*, p. 250.

plan, however, the actuaries estimated that the cost of old-age assistance would continue to increase after 1945, reaching an annual cost of $2,600,000,000 by 1980. The estimates of the staff of the Committee on Economic Security, as distinct from the consulting actuaries, were very much lower in each case. No future estimates have been made of the cost of aid to dependent children and the other welfare activities, but it may be assumed that these costs will be relatively small in comparison with the larger items of social insurance and old-age assistance.

PAY-ROLL TAXES

In considering the financial problems incident to the social security plan, it is important to distinguish between the two forms of social insurance, financed by compulsory contributions by employers and employees on the one hand, and the relief and welfare measures financed by public taxation on the other. We may consider the financial problems of social insurance first. These measures do not require support out of public taxation, at least not at the outset. It may be noted that a government contribution paid out of general taxes is a usual feature of social insurance plans abroad, and it is not unlikely that such contribution will be made in this country in the future. The principal problem of financing old-age insurance and unemployment compensation is the effect of the required contribution of approximately six per cent of pay-roll by employers (when the maximum rates are effective) and a contribution of three per cent of wages by employees.[69] There is little opposition to the required contribution of employees for old-age insurance, starting at one per cent in 1937 and increasing to three per cent of wages in 1949.[70] There is, however, considerable opposition to the requirement of contributions by employers. The effects of compulsory employer contributions are, of course, hardly predictable at this time. Studies of the effect abroad where comparable pay-roll contributions are required of employers would probably show little, because other and more important factors in wage structures and economic conditions have entered the situation, making it impossible to appraise the net effects of pay-roll contributions. It is quite obvious, however, that wherever possible the employer will

[69] These maximum rates are not reached until 1949, and the contribution for old-age insurance applies to only the first $3,000 annually of the wages of any employee.

[70] See, for example, the testimony of President William Green of the American Federation of Labor before the Senate Finance Committee, *op. cit.*, p. 181.

shift the contribution to the consumer by charging an increased price for his commodity or service, or, failing that, will attempt to readjust wages so that the contributions will be borne by the wage-earner. To the extent that the employer cannot shift the contribution either upon the consumer or upon the wage-earner, it will have to be paid by the employer himself, and hence will result in smaller profits. In view of the fact that the contribution rates are uniform throughout the country, and that this added expense will apply to all employers, the tendency will be to shift the additional cost to the consumer, except in commodities where the price structure is relatively inflexible.[71]

The pay-roll taxes are frequently criticized as increasing the tax burdens on industry. It may be pointed out that these are not ordinary taxes; they are not to be used for the general support of government, but to finance social insurance provisions for superannuation and unemployment. The principal defense of pay-roll taxes for these purposes is that by their use a part of the economic burden of unemployment and the retirement of superannuated workers may be charged into production costs. These pay-roll taxes do not increase the economic cost of unemployment or of old age, but rather tend to spread the burden over a larger group in the community. In the case of old-age insurance, the fundamental principle involved is that of spreading the wages of the employee over his remaining years of life rather than confining it to the period of his employment. According to the estimates of the actuaries of the Committee on Economic Security, only about one-fifth or one-sixth of the total wage losses due to unemployment can be compensated by a pay-roll tax of three per cent on wages; the remaining amount of wage loss will be borne by the individual worker and his family.

These pay-roll taxes have been called a form of sales tax, but in fact they are quite unlike the sales tax, which is used to support the general cost of government. Those who advocate the financing of unemployment insurance and old-age annuities wholly or largely by government contribution lose sight of the fact that they are a form of insurance and are not public charity. If they were paid for

[71] This is, of course, true of many industries. See particularly the testimony of Mr. John C. Gall before a subcommittee of the Ways and Means Committee, 73rd Congress, 2nd Session. *Hearings on the Wagner-Lewis Unemployment Compensation Bill* (H.R. 7659), p. 313.

wholly or largely by general taxation, they would lose their insurance characteristics. Another objection to pay-roll taxes is that they will stimulate the use of labor-saving devices and displace labor. Supporters of social insurance, while recognizing the validity of this argument, doubt that a tax of this amount will speed up the adoption of labor-saving devices, which is already going on at a rapid rate.

FEDERAL AID FOR OTHER WELFARE ACTIVITIES

The Social Security Act also provides federal aid to the states for welfare and health purposes, the largest of which by far is that for old-age assistance. The adoption of a policy of federal aid for welfare purposes raises the question as to whether it is necessary for the federal government to assume some responsibility for these activities, whether the state and local units of government are able to carry them on adequately without federal assistance, and whether the historic policy of this country of making the care of dependent members of society exclusively a local and state responsibility should be retained.

Study of local governmental finances indicates very clearly that most units of government are having financial difficulties. In many sections, certain local activities, such as schools, have been drastically curtailed within recent years. Local units of government are financed almost wholly by the general property tax, which, because of the declining assessed valuations, protests from property-owners, poor rates of collection in many communities resulting in serious tax delinquency, and the adoption of arbitrary tax limitation laws in many states, has greatly declined as a source of revenue. In 1932, the general property tax receipts amounted to $4,361,307,000, or 92.4 per cent of the total tax receipts of local units of government.[72] In contrast with the practice of European countries, local units of government have received very little aid from the central government. In England, central grants-in-aid to the local units of government in 1932 amounted to £126,000,000, while the local rates amounted to only £148,000,000. From 1920 to 1932, the central grants to local units of government in England increased by approximately 150 per cent.[73]

[72] Bureau of the Census, *Financial Statistics of States and Local Governments, 1932*. It is apparent that new welfare activities, involving large outlays, such as old-age assistance, cannot be financed by the general property tax.

[73] See *Statistical Abstract of the United Kingdom*, 77th Number.

It is quite obvious that if old-age assistance is to be developed upon an adequate scale in this country, it cannot be placed upon general property taxation, but must be financed largely by the state and federal governments through other forms of taxation. The financial condition of the states is little better than that of the local units of government. While they legally have the power to levy new kinds of taxes, except where strict constitutional provisions or unfavorable decisions of the Supreme Court limit this power, actually the state is too small an economic unit to levy effective taxes. This is well indicated by the history of state financing of unemployment relief. Many states have resorted to borrowing or to the sales tax.[74] Very few states have developed a satisfactory tax program to meet increased governmental cost. Aside from the inherent tax limitations of state and local governments, many states are economically too poor to provide adequate old-age assistance or other forms of public welfare without federal aid. Studies of per capita wealth and incomes indicate an extremely wide variation among states. The average per capita income of all inhabitants of a state varied in 1929 from a maximum in New York of $1,365, and an average income in the Middle Atlantic states of $1,093, to an average per capita income of $261 in South Carolina and $287 in Mississippi.[75] Other striking comparisons could be made of the tremendous difference in wealth and income between the wealthier states and the poorer ones. These comparisons seem to call for a wider use of grants-in-aid for welfare purposes. Any program for an increase in old-age assistance, aid to dependent children, and other welfare activities necessarily requires federal aid. It may be anticipated that in this country, as abroad, the national government will assume a larger responsibility in the field of welfare activities in the future. Along with this financial responsibility should go adequate provisions to insure that federal aid to the states and local units of government is expended wisely.

ADMINISTRATIVE PROBLEMS

This country has had little or no experience with the administration of compulsory forms of social insurance. Only one state had unemployment compensation prior to 1935, and in that state bene-

[74] See Llaslo Ecker-R, "Revenues for Relief," *State Government*, Nov., 1934.

[75] See Levin, Moulton, and Warburton, *America's Capacity to Consume* (Washington, 1934), *passim*.

fits have not yet become payable. There has been no experience with compulsory old-age insurance, and very little experience with free old-age pensions. The Social Security Act creates the largest system of old-age insurance yet attempted in any country, covering twice as many persons as the English system, and involving several times as much money. Similarly, unemployment compensation, if adopted by substantially all of the states, will apply to more employees and involve larger sums of money than any system abroad. These huge insurance enterprises, as well as the administration of old-age assistance, present difficult administrative problems. Employers are not accustomed to making the necessary reports and will doubtless raise serious objections to the requirements of pay-roll reports and other information. The problems of records, coverage, collection of contributions, the handling of claims, and the payment of benefits, will be very great in social insurance schemes affecting twenty to thirty million workers. A large organization to handle these and related matters will be required.

The state unemployment compensation laws will be administered by the several states, but under some federal supervision. Only nine states have civil service laws, and only a few (not in all cases those with civil service laws) have reasonably satisfactory personnel traditions. No other country in the world has ever attempted to set up a large social insurance undertaking under the administration of politically-appointed and non-permanent personnel. The administration of state workmen's compensation laws is not reassuring. In state plans with a pooled fund, the absence of any contesting party to claims for benefits may result in grave abuses. The original Social Security Act provided that the personnel administering unemployment insurance should be selected upon a non-partisan, merit basis, and the federal agency had authority to require minimum personnel standards. These provisions were stricken from the bill, and there is now no direct federal supervision over personnel provided in the act.[76] Whether greater federal supervision would insure better administration is, of course, debatable. We have not developed in this country a satisfactory system of public employment offices, which is generally regarded as an essential feature of an unemployment compensation system, though progress in this direction has been made under the Wagner-Peyser Act.

[76] See above.

The prospect for satisfactory administration of old-age assistance and the other welfare activities is not particularly good. Very few states have developed unified state and local departments of public welfare, adequately equipped and organized to administer these activities. Already the administration of old-age assistance in several states has been criticized severely because of the lack of competent, trained investigators and the domination of the systems by political appointees, resulting in the placing of unqualified persons on the old-age pension rolls. Under the federal act, the Social Security Board is not authorized to require any minimum standards of personnel qualifications, and because of the recent furore over centralization and states' rights, will probably regard it as unwise to withhold federal aid, except as a last resort. It seems inevitable that as time goes on grave abuses in particular states will force Congress to strengthen the law.

Some of these difficulties are inevitable in setting up systems of social insurance; others arise out of the generally low standards of public administration prevailing in many state and local governments. Many advocates of social security favor national administration. But the nationalization of all of these services, even if legally and politically possible, would give rise to other administrative difficulties equally serious. National administration may come in time, particularly if incompetent and political state administration obtains. Experience in other joint activities between the states and the federal government, such as highways, agriculture, public health, and agricultural extension service, indicates that it is possible to develop satisfactory standards of administration. In fact, it is generally in these activities that the best standards of state administration are to be found. The existence of federal agencies charged with rendering technical services to the state administrative agencies, with carrying on research studies and actuarial investigations, and with some supervisory authority, will help to bring about satisfactory standards of administration. The future of social security in this country will depend largely upon its administration. Incompetent, political, or slip-shod administration by the states may lead either to curtailment of the program or to federal administration.

THE LEGISLATURE AND THE ADMINISTRATION, II

JOHN A. FAIRLIE
University of Illinois

METHODS OF LEGISLATIVE SUPERVISION

Effective legislative supervision over administrative agencies depends on the means and methods employed. The main types of means and methods which may be employed include the following: (1) provision for securing adequate information concerning the work of the administration, by requiring records and accounts of administrative actions and financial transactions, regular reports of such actions and accounts, and requests for information on particular administrative affairs; (2) provisions for the examination of such reports, accounts, and other information, usually by means of legislative committees; (3) special investigations of a more intensive character of particular administrative services; and (4) impeachment and removal from office.[6]

Records and Reports. Modern administrative agencies keep elaborate records of their acts and financial transactions, and publish a large volume of reports and documents, many of which are submitted to the legislative bodies. To a considerable extent, such records and reports are required by legislative provisions. But these legislative requirements vary widely with respect to different agencies; and the practice of the different agencies varies still more widely. The total mass of published reports and documents issued by national, state, and the more important local governments is so extensive, and presented in such a variety of form, that it is difficult to obtain a clear understanding of the general results. On the other hand, some administrative agencies and many of the minor local governments present such brief reports, or in some cases none at all, that no definite information is available to the legislative body nor to the general public.

There is need for a greater degree of regulation and system in administrative reports. Legislative requirements as to the regular periods and some of the general characteristics of such reports should be more definite and more uniform. But the contents of the reports of different agencies will necessarily differ to a considerable

[6] For a more detailed analysis, see W. F. Willoughby, *Principles of Public Administration*, Chap. 2, and *Principles of Legislative Organization and Administration* Chap. 12.

extent; and to secure the best results, there is need for a central agency for the administration as a whole, and for each of the major departments, to formulate more specifically the requirements for different classes of reports.

An important need in most governments is for a general report presenting a summary of each administration as a whole. Something of this kind is suggested by the constitutional provisions requiring the President and state governors to give information to Congress and the state legislatures. Under these provisions, the President and the governors present messages to each session of Congress and of the state legislatures, and from time to time present special messages on particular subjects. Mayors of cities and other local executives present similar messages or reports to the local councils. In some cases, these annual or biennial messages furnish a general summary of some of the more important administrative services; but more often they deal with only a few topics, varying from year to year, and with more emphasis on recommendations for new legislation.

On one occasion, President Taft submitted in his annual message such a general summary of the national administration. During the World War, the British war cabinet issued two annual reports summarizing the more important acts of the government during the preceding year. But these sporadic examples have not led to any regular practice of the kind. In recent years, however, a number of city-manager cities have issued much improved municipal reports.[7]

In addition to regular reports, special messages, reports, or statements on particular matters are made from time to time, on the initiative of the chief executive, or as the result of legislative action. In the United States, formal legislative action is usually in the form of a resolution by one house of the legislative body, calling for information on a particular subject or authorizing a special investigation of a particular administrative agency. Resolutions of the first kind will usually secure the information asked for; but at times the President has declined to furnish certain information; and Senate resolutions requesting information on foreign relations usually contain the phrase, "if not incompatible with the public interest." Members of the legislative body may also obtain information in other ways. Administrative officials appearing before

[7] John M. Pfiffner, *Public Administration* (1935), Chap. 23; Municipal Administration Service, *Publications*, No. 9 (1928) and No. 19 (1931); *Public Management*.

congressional and legislative committees will be asked and will answer inquiries, and requests by letter or in person at the administrative offices will usually be answered. Information may also be secured from subordinate officials and employees in the various offices, some of whom may have been appointed on the recommendation of the legislature.

In European parliaments, other methods of securing information are employed. In Great Britain, a period of forty minutes is devoted each day to answering questions presented to ministers by members of each house of Parliament. Oral answers are usually brief, and debate is permitted only after a special motion. Questions calling for more detailed data are answered in print. In Continental countries, a more formal proceeding is that by interpellation. This is a call for an official statement on some matter of general interest, is usually the occasion for a debate, and may result in a vote which will challenge the position of the cabinet.

Questions and interpellations might be introduced in this country if proposals to permit administrative officials to come before the legislative bodies to present reports and answer inquiries were adopted. In the first Congress under the Constitution, some attempts in this direction were made; but these were opposed in both houses, apparently because of the opinion that the procedure would increase the influence of the executive. The early presidents made formal addresses to Congress; and this practice was revived by President Wilson, and again by President Franklin D. Roosevelt. The admission of the heads of departments to Congress would seem to open the way to better understanding and more active coöperation between the administrative and legislative organs.

In 1915, Wisconsin provided for a method of legislative interpellation of state officers by a statute requiring such officers to appear before the legislature upon petition of a certain number of members. Up to 1925, this procedure was used on several occasions for various state agencies, but after that time it fell into disuse. In 1931, on the recommendation of the governor, the Wisconsin legislature created an executive council, composed of five members of each branch of the legislature appointed by the respective presiding officers, and ten citizens appointed by the governor, to make studies and investigations of state agencies and advise the governor on any matter which he might refer to it.[8]

[8] L. D. White, *Trends in Public Administration*, p. 229.

In the model state constitution prepared by the National Municipal League, a legislative council is recommended to formulate plans of legislation; and such councils have recently been established in Michigan and Kansas.

Legislative Committees. The amount of work of any kind that can be done directly by any single agency is necessarily limited; and the larger the number of persons acting collectively as a single body, the smaller is the amount that can be accomplished by the whole group without division of labor. The enormous expansion of administrative services since the middle of the nineteenth century makes impossible any effective direct supervision by the existing representative assemblies, often composed of several hundred members. To meet this situation, modern legislatures, like other large bodies, have adopted the method of setting up smaller groups, or committees, for distributing the work to be done. Such legislative committees may be used for several purposes: to make preliminary inquiries as to the need for legislation; to scrutinize the details of proposed legislative measures; and to supervise and control to a varying degree the acts of the administration.

Magna Carta, in 1215, provided for a committee of twenty-five barons to control the king of England; and the Provisions of Oxford, in 1258, provided for a series of committees for a similar purpose. But neither of these was effective. As the House of Commons developed, committees were used as early as 1340, standing committees from the latter part of the sixteenth century, and committees of the whole house from early in the seventeenth century. From about 1625 to 1832, there were regularly set up standing committees on privileges and elections, and grand committees on religion, courts of justice, grievances, and trade. But during the eighteenth century, with the development of ministerial responsibility and of the Cabinet (in effect a committee of both houses), the standing and grand committees fell into disuse.

During the nineteenth century, other types of committees developed. Small committees were set up to consider private bills; select committees were appointed from time to time to study particular problems of legislation; and occasionally royal commissions were set up for more extensive inquiries, composed of members of Parliament and others. By 1880, the pressure on the time of Parliament had become so great that two grand committees were established, for the detailed consideration of bills relating to eco-

nomic and legal matters. Several additional grand committees were established later; and there are now five of these, composed of from 30 to 75 members each, to which most public bills are referred, after second reading. These serve a useful purpose in the discussion and amendment of the details of proposed legislation. Public bills, however, are prepared for the most part by the administration, with the support of the Cabinet. Committees on public accounts and estimates have already been noted in discussing financial control. But none of these committees exercises any large degree of control over the administration.

In 1918, a special "machinery of government" committee recommended the creation of a series of committees corresponding to the major administrative services, somewhat similar to the French parliamentary commissions. But no action has been taken along this line.

In France, the revolutionary Convention set up a series of powerful permanent committees. Beginning with the constitution of 1795, the practice of appointing special and temporary committees for particular measures was established, and it continued until 1902. These were selected from the "bureaus" or sections into which each house was divided by lot; and this system was criticized for the large element of chance in the selection of members, and for the lack of coördination on related measures. In 1898, several permanent committees were set up in the Chamber of Deputies, and in 1902 twenty-one standing committees were provided of forty-four members each; in 1910, the method of selection was changed to election by the Chamber on the basis of proportional representation of the different political groups. In 1921, the Senate established a similar system of permanent committees. These committees are closely articulated to the administrative organization, with one committee in each house for each of the major departments.

These parliamentary committees meet frequently in secret session, give detailed consideration to the bills introduced by the administration, and frequently make important changes. In the chambers, it is the bill as reported by the committee which is used as the basis of discussion, under the direction of the reporter of the committee. This method reduces the influence of the ministers, though less than formerly with special committees selected by lot. At the same time, the committees are able to learn a good deal

about administrative policy and actions, and to exercise a large degree of control over such matters.[9]

In America, most of the English colonial assemblies had temporary select committees, and several had a few standing committees before 1770; and by 1790 nine of the state legislatures had from three to eight standing committees each. The Continental Congress, the Congress under the Articles of Confederation, and the Constitutional Convention of 1787 used the committee of the whole and special committees. Under the Constitution, the House of Representatives acts as a committee of the whole; the Senate did so until recently; and both have used select or special committees from the beginning. A few standing committees were established before 1810; and after that date the number increased more rapidly. By 1921, there were sixty-two committees in the House and seventy-four in the Senate. In that year, the number of Senate committees was reduced to thirty-three, and in 1927 the number of House committees was reduced to forty-six. About a dozen committees in each house are of special importance. The size of committees has tended to increase. At present, most House committees have twenty-one members, and Senate committees range from three to twenty-three for the most important committees. There are more committees than seem to be necessary, and there is little correlation between the committees and the major administrative units.

Senate committees have been formally elected by the Senate (except for short periods between 1823 and 1838). Until 1911, House committees were appointed by the Speaker; since then they have been elected by the House. But in both chambers the selection is made by party committees, with the principal parties represented roughly in proportion to party strength. By custom, committee members are usually reappointed, and the member of the majority party of longest service is chairman. The House committee on rules and an unofficial steering committee of the majority exercise a good deal of control over the order in which particula measures come before the House. There are a few standing joint committees of both houses of Congress, for routine business and

[9] Lindsay Rogers, "Parliamentary Commissions in France," 38 *Polit. Sci. Quar.*, 413, 602 (1923); Gascon y Marin, "Le rôle des commissions parlementaires" (Spain), *Annuaire de l'Institut Internat. de Droit Public* (1932), 148.

for some administrative affairs; also a large number of special conference committees on particular measures, to reconcile differences between the two houses, and exerting a good deal of influence on the final form of such legislation. At times, special joint committees or commissions are set up to conduct investigations on particular problems.

In the state legislatures, both standing and special committees are used to a large extent. Most of the states have at least twenty committees in each house; two-thirds of the states have thirty or more house committees. A few states have, or have had, from fifty to seventy standing committees in one house or the other. Several New England states and Wisconsin make large use of standing joint committees of both houses; and special conference committees are used to a considerable extent. The number of members on each committee varies widely, from three to forty or more.

Both in Congress and in most of the states, there are too many committees, and the absence of a definite system articulated to a well organized administration promotes disharmony in legislation.

Legislative committees exercise several distinct functions. Under the American practice of free initiation of bills by individual members, the normal function is that of considering the thousands of bills introduced, holding public hearings, proposing amendments, and reporting approved measures. But preliminary inquiries may be made on a particular subject, and these have been used frequently in connection with changes in the tariff laws. In the consideration of proposed legislation, administrative officials appear before the committee, and exercise a varying degree of influence. At the same time, the elaborate committee system makes possible the large degree of detail in legislation regulating administrative methods. Special investigations of administrative officials are made from time to time, leading to further control of such agencies. Some committees deal with the administrative affairs of the legislative bodies; and some directly control certain phases of executive administration under the immediate jurisdiction of the legislature.[10]

[10] D. S. Alexander, *History and Procedure of the House of Representatives* (1916); R. V. Harlow, *The History of Legislative Methods in the Period Before 1925* (1917); Robert Luce, *Legislative Procedure* (1922); A. C. McCown, *The Congressional Conference Committee* (1927); C. I. Winslow, *State Legislative Committees* (1931); J. A. Fairlie, "Legislative Committees and Commissions in the United States," *31 Michigan Law Review*, 25 (1932).

In the United States national government, examples of congressional committees with powers of direct administration are the joint committee on printing, which is in effect the managing board of the Government Printing Office, the joint committee on the Library of Congress, the joint committee on internal revenue taxation, the national forest reservation commission, and the board of regents of the Smithsonian Institution. The first two of these joint committees deal with institutions which to a large extent are congressional in character, but which are now administrative agencies of a more general character. The two commissions are composed in part of members of Congress and in part of other officials. Steps to extend further the field of direct administration of the joint committee on printing in 1921, and of the joint committee on internal revenue taxation in 1933, were blocked by vetoes of Presidents Wilson and Harding.

In the states, there have been similar measures for direct administration by legislative agencies, notably in connection with the recent movement for new budgetary methods. In several states, the preparation of the budget was given for a time to a board or commission composed in part of members of the legislature, as the Wisconsin board of public affairs. In New York, a series of provisions required the approval of the chairmen of the senate finance committee and the assembly ways and means committee for the distribution of lump-sum appropriations for personal services. In 1929, provisions of this kind were vetoed by Governor Franklin D. Roosevelt as unconstitutional; and this action was sustained by the court of appeals.[11]

Direct committee administration is more common in local government. This is the dominant feature of English local government, where county, borough, and other local council committees directly control the technical officials. In a considerable number of American cities, and in counties with large county boards, there is also a good deal of direct committee administration.

Special Investigations. Of increasing importance are the special investigations of particular administrative agencies, or of the general system of administration, by standing or special legislative committees or commissions. As early as 1792, the national House

[11] W. F. Willoughby, *Principles of Legislative Organization and Administration*, 118–132; Springer v. United States, 227 U. S. 189; People v. Tremaine, 252 N. Y. 23 (1929).

of Representatives authorized such an investigation; and more than three hundred have been made since that time. Among the more extensive may be noted those on methods of business in the executive departments in 1888 and on the organization of the executive departments in 1893 and 1921. Before the Civil War, such investigations were usually made by House committees; but since that time the Senate has been the more active body. Investigations of particular services have been more common after a change of party control in one branch of Congress, as in the time of President Grant (1869–77) and in the last two years of President Wilson.

Special investigations by state legislative committees have also increased largely in recent years. Many of these have been for the consideration of proposed legislation. From sixty to eighty have been authorized during each biennial period since 1909; and in some states several may be under way at the same time. More than a hundred special state inquiries on taxation have been made since 1832. Since 1910, about half of the states have had special commissions on state administration. In several states, special commissions have made studies and published materials for the use of state constitutional conventions. A considerable number of state investigations have dealt with local government, as a whole or in particular communities.

In such special investigations, two main groups may be recognized, with some overlapping. Some have mainly aimed at constructive reforms in legislation and administration, with little or no reference to misconduct of particular officials. Others have been directed largely toward personal misconduct, with a view to criminal prosecutions, to impeachments, or to political advantage. The latter have been criticized for their attitude of partisanship and persecution; and in some cases there has been justification for this criticism.

Legal questions have been raised also as to the power of such investigating agencies to compel the attendance and testimony of witnesses. It has been held that such investigations may not be made as to matters pending before the judicial courts, or matters on which no legislative action is possible. But the general power to conduct inquiries to obtain information as a basis for legislative action has been upheld; and the Supreme Court of the United States has indicated that it will not scrutinize too closely the ob-

jects of the investigation if the declared purpose is within the power of the Congress.

It may also be said that the general power of inquiry by the legislature is not only legally justified, but serves a useful purpose in the governmental system. At the same time, the manner of conducting such investigations has been open to objection; and there is room for improvement in this respect.[12]

Impeachment and Removal from Office. Legislative control over administrative officials by removal from office has been established and exercised in various ways and varying degrees in different countries. In England, on more than one occasion, Parliament has removed or forced the abdication of the king. For other officials, the method of impeachment was established as early as 1386, and was used from time to time until early in the nineteenth century. But with the development of the responsibility of ministers to the House of Commons, the retirement of officials not acceptable to that body is secured without a formal trial. Parliament, however, has the power to secure the removal of judges by an address from both houses, though this power has been rarely used.

In the United States, the legislative power of impeachment is established both in the national and state governments. Other methods of legislative removal are provided in some state constitutions, as the removal of judges on the request of the legislative bodies; and in some cases there is specific provision for the consent of the senate for the removal of officers for whose appointment senate approval is necessary. In some states, the senate, by failure to confirm a new appointment, may prevent a removal by the governor. Congress and the state legislatures have also provided for the vacation of offices by limiting the terms, though this is often qualified by the provision that an official holds until his successor is selected and qualifies. By the Tenure of Office Act of 1868, Congress attempted to control removals by the President; but this act was soon amended, and was repealed in 1887, after an attempt by the Senate to refuse approval to new appointments

[12] McGrain v. Daugherty, 273 U. S. 135 (1926); "The Power of Congress to Subpoena Witnesses for Non-judicial Investigations," 28 *Harvard Law Review*, 234 (1924); James M. Landis, "Constitutional Limitations on the Congressional Power of Investigation," 40 *Harvard Law Review*, 153 (1926); "Power of Legislative Bodies to Punish for Contempt," 74 *Univ. of Pa. Law Review*, 694 (1926); 26 *Michigan Law Review*, 237 (1928); M. E. Dimock, *Congressional Investigating Committees* (1929); 21 *American Political Science Review*, 47 (1927); 24 *ibid., Supp.*, 83 (1930).

had failed. In a few cases, however, congressional and legislative investigations have led to the resignation of officials. The Budget and Accounting Act of 1921 provides that the Comptroller-General may be removed only by joint resolution passed by both houses of Congress. The power of the President to remove a postmaster in the face of a statutory limitation was upheld in sweeping terms by the Supreme Court in the Myers case; but a later decision, as to a member of the Federal Trade Commission, holds that Congress may limit this power as to some classes of positions.

Removal by impeachment of administrative and judicial officers, in both the national and state governments, is accomplished by action of the house of representatives in adopting articles of impeachment, corresponding to an indictment in a criminal case, by trial before the senate, and conviction by a two-thirds vote. House action is preceded by a committee investigation; and if the house votes for impeachment a special committee is chosen to conduct the trial before the senate. In the senates, when the President or the governor is on trial, the chief justice of the supreme court presides. Judgment in cases of impeachment is limited to removal from office and disqualification to hold any office of honor, trust, or profit; but the party convicted is also liable to indictment, trial, and judgment before the regular courts according to law.

In the United States national government, there have been some thirty-six cases of impeachment charges in the House of Representatives, thirteen of which have been submitted to the Senate; and in four the accused has been convicted. These cases have developed some problems and established precedents as to the application of this process.

Most of the impeachment cases in Congress have been against United States judges, for whom no other method of removal is provided. In an early case against a United States senator who had been expelled by the Senate while the impeachment was pending, the Senate dismissed the case for want of jurisdiction. In a case against a secretary of war, who had resigned, the Senate, by a majority vote, held him subject to trial; but most of those who had voted "want of jurisdiction" voted "not guilty," and this reduced the vote for conviction to less than the required two-thirds. In several cases, judges have resigned pending impeachment proceedings, and no further action has been taken. In some instances, the question has been raised whether impeachment can be brought

for acts committed as holder of a former office, but no conviction has been had on such grounds.

There has been a good deal of discussion as to the kinds of charges on which impeachments may be based. Treason is defined in the Constitution; but are "high crimes and misdemeanors" limited to statutory and common law offenses, or may they include maladministration, arbitrary and oppressive conduct, political offenses, or even gross improprieties? In some cases, the House of Representatives has included charges for other than statutory offenses. In the early case of Judge Pickering, whose habits unfitted him for the duties of his office, he was found guilty, in the face of testimony as to his insanity. But in later cases, including that of President Johnson, the Senate did not convict on charges not based on statutory offenses.

Available data on impeachment proceedings in the states are not complete. There have been fifteen cases of impeachment against colonial and state governors. Seven of these occurred between 1862 and 1876, most of them during the Reconstruction period in the Southern states. Two of these resulted in conviction and removal—Governor Holden of North Carolina in 1870 and Governor Butler of Nebraska in 1871. Governor Ames of Mississippi (1876) resigned. One case resulted in an acquittal; and in the others proceedings were discontinued, in one case after the expiration of the term of office. There have been six cases since 1913, resulting in the removal of Governor Sulzer of New York in 1913, Governor Ferguson of Texas in 1917, and Governor Walton of Oklahoma in 1929. Proceedings against Governor Long of Louisiana were discontinued.

There have also been more than a hundred cases of impeachment trials of other state and some local officials. More than half (fifty-four) of these have involved judges, and forty-three have involved other state officials. The largest number of cases has been in Pennsylvania (sixteen) and Massachusetts (fourteen). No records of impeachment have been discovered in seventeen states.[13]

In several of these cases, the question was raised whether a

[13] Helen M. Weckel, "Impeachments and Removals from Office by the Legislature in American States" (University of Illinois thesis); Roger Foster, *Commentaries on the Constitution of the United States* (1895), Appendix I on "State Impeachment Trials"; 22 *American Political Science Review* (1928), 652–658; 24 *ibid.* (1930), 648; 48 *Political Science Quarterly* (1933), 184–210; 3 *Wisconsin Law Review* (1924–25), 155–169.

legislature called in special session, and limited to business named by the governor, could initiate impeachment proceedings against the governor, although naturally not included in the call for the special session. In all instances it was held that impeachment proceedings were valid. A further question as to whether the legislature can meet in special session for this purpose without a call by the governor has not been determined.

Impeachment is a cumbersome process, not adapted for securing continuous control over administrative officers. Formal impeachment by the house is not easy to secure; and conviction by two-thirds of the senate is even more difficult. In the national government, it has been found useful in the case of United States judges; it has served also in a few cases for state governors. Other methods of securing removals by legislative actions are also of limited application.

Campaign Funds and Their Regulation in 1936. As we enter another presidential contest, it is well to reflect on where we stand with reference to party funds and their public control. So much attention in the past two years has been concentrated on pressing emergency problems that this vital matter of regulating the real springs of public policy has been quite overlooked. But now that we are face to face with the realities of a huge quadrennial plebiscite, careful students of democratic institutions might profitably refresh the memories of voters and legislators and point out the significant facts about campaign funds and their regulation today, particularly those facts which have a bearing on the present situation.

Since the presidential campaign of 1932, next to nothing has been accomplished in our attack on the improper use of money in elections. In Massachusetts, a special commission on primary and election laws, of which Professor Holcombe of Harvard was a member, strongly urged "a strengthening of the corrupt practices act to eliminate the present obvious violations of the intent of the act. There is no election law," said the commission, "and probably few other laws to which so little attention is paid, and which is violated with so little compunction."[1] But the advice was not acted upon by the legislature.

In the national arena, both houses of Congress, in 1932, following past practice, set up committees to investigate campaign expenditures.[2] But neither committee conducted a thorough investigation, and neither even rendered a report. In 1934, the House and the Senate again created investigating committees,[3] but once more real investigations were not deemed necessary, and only the Senate committee presented a report.[4] This document, which incidentally was signed by two of the abler members of the Senate—Borah and Costigan—stated that "the committee does not recommend any change in the existing laws of the United States with reference to the election of United States senators." Possibly the senators had forgotten their pious resolutions in the Newberry and Vare cases, or possibly they did not deem it timely to start the ball rolling in

[1] Senate Document No. 235. This report also contains a proposed act to carry out the recommendations of the commission relating to political expenses. This act was not passed by the legislature.

[2] See *Congressional Record*, Vol. 75, p. 14059, for the House committee headed by Mr. Ragon, and Vol. 75, p. 15411, for the Senate committee headed by Senator Howell.

[3] See *Congressional Record*, Vol. 78, pp. 12108–12109, for the House committee headed by Mr. Ragon, and Vol. 78, pl. 12017, for the Senate committee headed by Senator Byrnes.

[4] Senate Report No. 11, 74th Congress, 1st Session.

the direction of a new attack on practices which the Senate once referred to as "dangerous to the perpetuity of a free government."[5]

Starting early to prepare itself for the approaching campaign, the House of Representatives some months ago set up an investigating committee to function for the campaign of 1936. The Senate has now followed suit, and we may be favored with a more serious probe into campaign funds than we have recently had.[6] We can only surmise what developments may arise from the work of these committees. Since the task is ahead of them, it might be well to raise for their benefit, or for the benefit of anyone else interested in pure elections, the problems which still remain to be attacked in this vital field of democratic government.

First of all, the suggestion can be made that the Senate and House would do well to combine forces and permit a joint committee to undertake a study of all phases of the question. Since so many congressional committees which have been set up for the purpose of investigating campaign funds have done their work perfunctorily and without much interest in the problem, or without a full realization of its magnitude and importance, it would be helpful to add to this committee, either by congressional or by presidential designation, a number of outstanding citizens who are acquainted with the problem and who would be interested in a vigorous and objective investigation and report. In other words, why not create an American adaptation of a British royal commission, and see if the experiment would be more fruitful than the usual congressional investigation? After all, we are not dealing here with merely a legislative problem. There are important public aspects, and the public always needs to be informed and led. Such an American Commission of Inquiry into Campaign Funds as above proposed would be unique, and to say the least, helpful.

Such a commission investigating the subject in 1936 would direct its attention to many phases of the problem, most of them of long standing. Among these are: (1) the constitutional limitations which interfere with a complete regulatory statute; (2) inadequate publicity; (3) ineffective administration and enforcement of existing statutes; (4) campaign deficits; (5) fixation of definite responsibility for all political expenditures;

[5] It should be noted that several bills have been introduced in Congress in the period since 1932. Senator Nye re-introduced the comprehensive measure which his committee had prepared in 1931. This bill, S.1223, 74th Congress, 1st Session, is awaiting the attention of the Senate and can be taken up the moment an active demand for legislation appears. Other bills which have been introduced are Mr. Kvale's bill, H.R.2814, in the 74th Congress, 1st Session, and Mr. Keller's bill, H.R.1622, in the 73rd Congress, 1st Session.

[6] See *Congressional Record*, Vol. 79, pp. 14671 and 15129, for the committee headed by Representative Granfield of Massachusetts; *ibid.*, Vol. 80, pp. 4912–4913 and 5675–5676, for the Senate committee headed by Senator Lonergan of Connecticut.

(6) regulation of the details of political expenditures; (7) limitation of the size of expenditures; (8) government assistance to candidates and parties; and (9) sources of campaign contributions.

Developments and disclosures of recent years have emphasized the importance of several of these phases. The Federal Trade Commission recently revealed the fact that officials of public utility companies contributed $468,900 to the Republican National Committee in the three presidential campaigns of 1924, 1928, and 1932, and $120,100 to the Democratic National Committee during the same years.[7] The Nye Committee investigating the munitions industries has made public incomplete reports showing political contributions from officers and directors of the Du Pont Company. These reports list contributions to both parties of $432,000 in the period from 1919 to 1934.[8] The investigations which have been conducted into the public activities of utility companies and other groups have developed significant material bearing on the use of money to influence public policy. An interesting analysis made by one of the leading students of campaign funds demonstrated the close connection between "Big Business" and such funds.[9] Clearly the source of campaign contributions must be watched, and serious attention given to removing the anti-public influences which, unfortunately, are so important in determining our politics. Perhaps the treasurer of the Republican National Committee had this in mind when he proposed recently that each party should be allowed a certain amount of money to conduct its campaign throughout the country.[10] The suggestion is, of course, not new, but it may well be pondered.

Another phase of present importance is the spectacle of huge party deficits. Parties are not now required to keep within their incomes. They may become deeply indebted, and even enter into campaigns owing hundreds of thousands of dollars to banks and individuals.[11] Some of the most deplorable political practices have been associated with the wiping out of campaign deficits, and it would not be surprising to find malodorous dealings in connection with the liquidation of present party deficits.

Another point of burning importance as we enter into the presidential campaign is the irresponsible and indiscriminate spending of money for political purposes which is possible under existing statutes. Responsibility is not fixed, loop-holes are provided, and effective regulation is therefore quite impossible.[12] As pressure groups grow in influence and importance,

[7] *New York Herald Tribune*, Nov. 7, 1935.
[8] *Ibid.*, Oct. 30, 1935.
[9] See this REVIEW, Vol. 27, p. 776.
[10] *New York Herald Tribune*, Nov. 20, 1935.
[11] See this REVIEW, Vol. 27, pp. 782–783.
[12] See the testimony on remedial legislation taken by the Nye Committee in 1931. Nye Committee, *Hearings on Campaign Expenditures*, 1931, pp. 3–4.

this phase of the problem will become more pressing. Already we have in existence the American Liberty League, the Townsend clubs, Father Coughlin's Union for Social Justice, and numerous other non-party groups. Have these organizations observed the federal and state corrupt practices acts providing for the filing of expense accounts? The Liberty League has made a "courtesy filing" in Washington and the Union for Social Justice has recently deposited its first account with the clerk of the House. What the Townsend clubs have done has been partially ascertained by the congressional committee lately investigating them. If money is to be expended for political purposes, it should be accounted for, and a proper accounting is not possible as long as diffused and individual expenditures are permitted.

The constitutional questions arising in connection with an effective regulation of campaign funds present serious difficulties. The Nye bill quite properly, but apparently quite unconstitutionally, attempts to regulate expenditures made in behalf of candidates for the presidency and vice-presidency.[13] However, the case of Burroughs and Cannon v. United States decided in 1933, following the disclosures by the Nye Committee of Bishop Cannon's campaign financial operations in Virginia, somewhat strengthens and greatly clarifies the legal status of the present federal corrupt practices act.[14] In its decision, the Supreme Court, through Justice Sutherland, said of the act: "Its operation, therefore, is confined to situations which, if not beyond the power of the state to deal with at all, are beyond its power to deal with adequately. It in no sense invades any exclusive state power." But if Congress attempted to include a regulation of nomination for the presidency, could sufficient constitutional justification be found? "The President is vested," says the Court, "with the executive power of the nation. The importance of his election and the vital character of its relationship to and effect upon the welfare and safety of the whole people cannot be too strongly stated. To say that Congress is without power to pass appropriate legislation to safeguard such an election from the improper use of money to influence the result is to deny to the nation in a vital particular the power of self-protection. Congress undoubtedly possesses that power, as it possesses every other power essential to preserve the departments and institutions of the general government from impairment or destruction, whether threatened by force or by corruption." Strong words these, but perhaps the word "election" is used to mean only the general election, as Justice McReynolds so magniloquently asseverated in the Newberry case. Nevertheless, the

[13] These provisions are found in S.1223, 74th Congress, 1st Session, Sections 2(a), 2(b), 6, and 16.

[14] 290 U. S. 534.

Court states clearly that "the power of Congress to protect the election of President and Vice-President from corruption being clear, the choice of means to that end presents a question primarily addressed to the judgment of Congress."

Constitutional doubts can be settled only in actual cases, and until Congress attempts to regulate the whole field of elections, including nominations, we can only speculate. The necessity for such complete regulation is clearer than ever at the present time. With a bitter presidential campaign in the offing, the duty of Congress seems obvious. That body should enact a thoroughgoing statute such as the Nye bill, and if constitutional handicaps are thrown in the way of its operation, it will then be time to talk of another approach.

Parenthetically, it may be pointed out that in the last few years increasing use seems to have been made of our dilapidated corrupt practices acts. The case above mentioned in Virginia, the Foulkes case in Michigan, the Brum case in Pennsylvania, and several other cases have indicated a willingness on the part of candidates to make use of existing legal provisions. If interested citizens, as well as defeated candidates, could have placed in their hands a really enforceable statute, better observance of campaign regulations would result.

One final subject deserves emphasis in this brief recapitulation of existing problems. Inadequate publicity has always militated against satisfactory observance, and sporadic and casual enforcement has always been an invitation to commit breaches of the law. It now becomes quite necessary in the federal field to create an agency whose responsibility and duty it will be to provide adequate publicity and constant supervision. Just as it has been necessary and beneficial to create a commission to regulate railroads, and another commission to prevent unfair competition, and more recently another commission to regulate securities, so has it come to be desirable to set up some kind of a permanent agency to handle the matter of regulating political expenditures. As Professor Beard put it in his testimony before the Nye Committee: "I think you ought to have a permanent agency equipped with permanent personnel that would become familiar with state and federal laws and be able to act promptly in the light of long experience. If you appoint a special committee or intrust it to one of the busy committees on elections, you may not get the kind of service that you would if you have a man working every year, for fifteen years, say, in corrupt practices legislation."[15] Such an agency was proposed in a bill introduced in the Seventieth Congress by Senator Cutting.[16] Were such an agency created, Congress would

[15] Nye Committee *Hearings*, 1931, p. 59.
[16] S.4422, 70th Congress, 1st Session.

probably find the job of investigation and enforcement performed with less cost than under the present practice of setting up periodic and peregrinating part-time committees. The necessity for such a permanent agency becomes increasingly clear as elections come more and more to decide our whole economic existence and not merely the control of a few offices.

The public aspects of the problem of campaign funds have necessarily occupied most of our attention. The party aspects are, however, at least to the parties, equally important. Will the public adequately contribute to party funds? Will radio continue to cost the parties upwards of twenty-five per cent of their total budgets? Will the parties be forced to rely principally on large contributions, or will millions of the rank and file come forth with small contributions? These are very real and vastly important problems for party committees, and since parties are indispensable to democratic government, they are also public problems. In any case, it is to be hoped that reliance on large contributors will be lessened, if not removed, in 1936. Would not an entirely new approach meet with satisfactory public response—for instance, securing a dollar from each of five million party members? Until such a democratic plan is tried, we cannot say that it is impracticable. It worked for the Social Democratic party in Germany; it works for the Labor party in Britain. Why could it not work in America?

We have now passed in this matter of campaign fund regulation the first reading, which consists of much investigation and report. I think we have also passed the second reading of talk and discussion. I think we are now ready for the third reading and final passage of something to regulate effectively this vital and important matter—not to produce a lot of meddlesome regulations, but really to cope with this problem of financing political parties; because, in my opinion, the financing of political parties is everywhere one of the greatest unsolved problems of democratic government.

JAMES K. POLLOCK.

University of Michigan.

Tightening the Direct Primary. In his study, "Government and Society," Professor Charles E. Merriam makes an interesting observation which may be interpreted by enthusiastic students of government as evidence of progress in the movement to reform the complex and obsolete electoral system prevailing in a majority of the states. "The number of elective officers," he writes, "estimated at more than 750,000 in the United States, has decreased somewhat in states, counties, and cities under the influence of the short ballot movement. The number of elective offices in 202 cities decreased from 3,118 to 2,343 in the period

from 1915 to 1929."[1] These observations are unquestionably indicative of the tendency to shorten the ballot and, if accepted without qualification or modification, the decrease noted is sufficient evidence of progress to offer encouragement to the supporters of the short-ballot movement.

This movement, as understood by the writer, is an attempt to lighten the burden upon the electorate, encourage intelligent voting, and intensify public interest in the selection of officers through the simplification of the electoral process. Public apathy and blind voting, it has been urged, arise out of the confusion of offices and names which characterize the modern ballot. Thus the decrease in the number of elective offices noted above, if taken by itself, is evidence of progress in the direction of simplification. However, there are, unfortunately, other problems which must be considered in arriving at a fair conclusion.

Apathy and confusion are, in part, properly chargeable to number; but the number of offices to be filled in an election is scarcely less confounding than the frequency of elections and the total number of persons seeking nomination and election. In other words, little has been gained by decreasing somewhat the total number of elective offices, if at the same time the number of candidates has been greatly increased and the number of elections doubled. Further, it is apparent that the evils attributed to the long ballot increase not only in ratio to the number of offices and candidates, but also in proportion to the density of the voting population. Viewed from this angle, the progress which has been noted is inconsequential when compared with the losses which have been sustained through the widespread use of the direct primary as a nominating device. Thus, in view of the abuses introduced by the primary in our more populous regions, any real reform in the system is dependent not only upon a decreased number of elective offices, but also upon changes in the present methods of nomination which will deter the less serious office-seekers. The soundness of this proposition can be demonstrated from a survey of the situation in Wayne county, Michigan, with special reference to the city of Detroit.

In recognition of conditions in this section of the state, the legislature has attempted some reforms. Nevertheless, in spite of these efforts, constitutional limitations and political expediency have combined to preserve the "best traditions" of the system of public elections. An attempt has been made to minimize the effect of national politics in the election of judicial, school, and municipal officers through the adoption of a system of staggered elections. United States senators, congressmen, the governor, lieutenant-governor, a majority of the state administrative officers, members of the state legislature, and most county officers are elected in the general November elections in the even-numbered years.

[1] *Recent Social Trends* (1933), p. 1508.

The remaining state and county offices, including an elective judiciary, are filled in biennial elections held in the spring of the odd-numbered years; and in the city of Detroit municipal officers, excepting judicial, are nominated and elected in the following autumn.

The ballot has been somewhat shortened through the elimination of the names of presidential electors[2] and the abolition of the presidential primary;[3] and the process has been further simplified by a restrictive use of the direct primary for the nomination of candidates for offices filled by state-wide elections.[4] The situation in Detroit has been further improved in that municipal primaries and elections are conducted on a non-partisan basis.[5] Yet, elections are so frequent and elective offices so numerous that public interest is rarely aroused, and the possibilities for conscientious and intelligent voting have been almost eliminated. Further, campaign tactics have been introduced which are clearly intended to bring the entire process into disrepute.

All in all, in the last two-year cycle of elections, the Detroit voter had the doubtful privilege of participating in the selection of approximately 150 public officials—national, state, and local, exclusive of vacancies and the choice of delegates to party conventions. All but a very few of the candidates were nominated in primary elections. In the primaries of 1935, the names of 453 office-seekers appeared upon the ballots; and in the past five years no less than 2,500 persons have sought nomination in this manner in Wayne county alone. Of these, all but 37 were seeking to become candidates for offices filled exclusively by the voters within that county. The distribution of these candidates is set forth in the accompanying tables. It will be noted that a majority of those seeking nomination in these contests were prompted to do so because of: (1) the great number of minor and inconsequential posts filled by public elections, (2) the nomination of several candidates upon a general ticket,[6] and (3) the rush for office evident when a weakly organized minority party threatens to sweep the ensuing election.[7]

[2] Public Act No. 306, *Public Acts, 1929.*

[3] Public Act No. 200, *Public Acts, 1931.*

[4] Candidates for the office of governor, lieutenant-governor, and United States senator are the only ones nominated in primary elections. Candidates for all other offices filled through state-wide election are nominated in party conventions.

[5] *Charter of the City of Detroit*, Title II, Chap. 2, secs. 1–2 (as amended Apr. 6, 1925).

[6] See Table I, state representatives and circuit judges; Table II, council members and constables.

[7] See Table I, democratic candidates in the primary of 1932, and thereafter. In the primaries of 1926 and 1928, the names of only 79 and 83 candidates, respectively, appeared upon the ballot; while in 1930 there was no real party contest, and only a few scattered democratic candidates went to the trouble of filing petitions.

TABLE I

PARTY PRIMARIES, WAYNE COUNTY, MICH., 1930–35

Office	*Sept., 1930*			*Sept., 1932*			*Sept., 1934*			*March, 1935*			*Totals*		
	Rep.	*Dem.*	*Tot.*	*Rep.*	*Dem.*	*Tot.*	*Rep.*	*Dem.*	*Tot.*	*Rep.*	*Dem.*	*Tot.*	*Rep.*	*Dem.*	*Tot.*
U. S. Senate	2	*	2	—	—	—	*	4	4	—	—	—	2	4	6
Congress†	3	*	3	30	27	57	15	10	25	—	—	—	48	37	85
State Offices (Gov. & Lt. Gov.)	7	*	7	8	3‡	11	7	6	13	—	—	—	22	9	31
State Senate (5th dist.)	4	*	4	13	8	21	26	25	51	—	—	—	43	33	76
State Represent (to nom. 17)	112	*	112	66	89	155	72	88	160	—	—	—	250	177	427
County Offices (to nom. 11)	61	*	61	43	88	131	69	97	166	—	—	—	173	185	358
Cir. Ct. Judges (to nom. 18)	—	—	—	—	—	—	—	—	—	39	181	220	39	181	220
Bd. Co. Auditors	—	—	—	—	—	—	—	—	—	8	52	60	8	52	60
Co. School Comm.	—	—	—	—	—	—	—	—	—	*	9	9	—	9	9
Totals	189	—	189	160	215	375	189	230	419	47	242	289	585	687	1272

* No contest within party.

† First district, 1930; 15th for all other years.

‡ No contest for lieutenant-governor.

To what extent a majority of these persons were qualified for, or even sincerely interested in, public office cannot be known; but there is no doubt that with ever-increasing regularity the primary has been seized upon by political opportunists and other frivolous candidates for personal and business reasons. The circulation of nominating petitions and the ensuing campaigns are viewed by many as a convenient method of advertising business and professional wares, by others as an opportunity for disseminating social, economic, political, and religious doctrines and

TABLE II

NON-PARTISAN PRIMARIES, DETROIT, MICH., 1931–35

Office	*Sept.*, 1931	*Sept.*, 1933	*Mar.*, 1935	*Sept.*, 1935	*Total*
Mayor	8	12		5	25
Clerk	4	5		2*	11
Treasurer	3	12		4	19
Council (to nom. 18)	87	99		44	230
Constable† (4 each ward)	367	370		109‡	846
Recorder of Recorder's Court			3		3
Judges of Recorder's Court			*		
Judges, Traffic & Ord. Div. (to nom. 2)			37		37
Judges of Com. Pleas (to nom. 4)			32		32
School Inspectors (to nom. 3)			12		12
Totals	469	498	84	164	1215
Total from Party Primaries					1272
Grand Total					2487§

* No contest in primary.
† Separate constable tickets for each ward.
‡ No contest in 12 of the 22 wards.
§ More than 100 additional names appeared upon the ballots to fill vacancies.

theories. The confusion of the primary has afforded a few, blessed by birth or court order with a politically popular surname, considerable publicity and in some cases a place upon the public pay-roll.

Viewing with alarm the abuses immanent in this multiplicity of candidates, civic leaders and political reformers became convinced that either the primary must be abandoned or steps taken to return to it a degree of dignity and respectability. There was general agreement that if the primary was to be retained, some system must be devised which would discourage frivolous candidates without imposing undue penalties upon those who were genuinely sincere. The ease with which the requisite number of signatures could be secured emphasized the necessity for the introduction of some principle which would replace, or at least supple-

ment, the signature petition as a method of qualifying for a place upon the primary ballot. This line of thought focussed attention upon the possibilities of the filing fee as a desirable substitute, and in 1931 it was legally introduced as an alternative to the nominating petition for certain offices in Wayne county.

In 1930, "the Administrative Board authorized the appointment of a special commission to study the election laws of the state, and to recommend such changes in them as might appear advisable." After a thorough examination of the existing laws, this commission reported to the governor in the following March, "recommending nearly fifty amendments or additions to our present election laws."[8] Among the proposed changes was one "intended to discourage frivolous candidates in connection with certain offices in several parts of the state." "We recommend," the report read, "increasing the number of signatures required on nomination petitions in legislative districts wherein more than one candidate is to be elected, or in place of such increased number of signatures, a filing fee which shall be forfeited if the candidate does not secure a certain number of votes."[9]

The report was accompanied by a well-drafted bill embodying these recommendations.[10] On this particular proposal, the bill provided "that in any district entitled to more than one representative in the state legislature, to obtain the printing of the name of any candidate of any political party under the particular party heading upon the primary election ballots in the various voting precincts of such district, there shall be filed [*by each candidate*] with the county clerk of the county of which such district forms a part, [*a*] nomination . . . [*petition signed by a number of registered and qualified voters residing in such district equal to not less than five per centum of the votes that such political party cast in such district for secretary of state at the last preceding November election or in lieu thereof a filing fee of $250 to be paid to the county clerk, payment of the fee and certification of the candidate's name paying same to be governed by the same provisions as in the case of nominating petitions, which fee shall be deposited in the general fund of the county and shall be returned to all candidates who shall be nominated and to a like number of candidates who are next highest in order thereto in the number of votes received in the primary election, and*

[8] *Journal of the Senate*, 1931, pp. 241–242. Members of the commission were: Claude H. Stevens, lawyer and senator from Wayne county; Vernon J. Brown, publisher and veteran member of the house; James K. Pollock, professor of political science, University of Michigan; James T. Caswell, professor of political science, Michigan State College; Oakley E. Distin, chief supervisor of elections, Detroit; Clarke W. Brown, deputy secretary of state; and Dorothy L. Judd, president of the League of Women Voters.

[9] *Ibid.*, p. 243.

[10] Senate Bill No. 96, 56th Legislature, regular session of 1931;

in case two or more candidates shall tie in having the lowest number of votes allowing a refund hereunder, the sum of $250 shall be divided or pro-rated among them:]"[11]

It is to be noted that this proposal seriously compromised the principle of the fee system; however, the legislature was not yet prepared to accept even as moderate a measure as that introduced. The bill became law only after having been rewritten in the committee on elections and amended from the floor in each house. These changes cut the recommended number of signatures from five to two per cent and decreased the amount of the filing fee from $250 to $100.[12] The sponsors of the original bill were sorely disappointed, but, in view of subsequent events, it is perhaps fortunate that their recomendations were not accepted. The filing fee recommended only as an alternate method of qualifying, would have been avoided by frivolous candidates and, because of the methods commonly employed by "petition pushers," the additional signatures would have introduced no insuperable obstacles to the persistent self-seeker. The law proved ineffective as a reform measure, yet its significance is beyond question: it demonstrated the potentialities of the filing fee as a method of qualifying for the primary and prompted the immediate enactment of a similar provision for the city of Detroit.

The common council of that city was induced to submit to the people for approval a charter amendment, introducing the principle of the fee system. This proposal, which also recommended the filing fee as an alternate method, read: "No candidate's name shall be placed upon primary election ballots for nomination for any city office unless there shall be filed with the city clerk, a nominating petition . . . , or in lieu thereof nominating petitions for such office may be filed with the city clerk, and accompanying such petitions there shall be paid to the city clerk a fee in such sum as shall be equal to two per cent of the first year's salary for such city office."[13] If no salary was provided for the office sought, as in the case of constables who work on a fee basis, the petition could be filed without signatures if accompanied by a fee of fifty dollars. Once paid, the fee was in all cases, for successful and unsuccessful candidates alike, forfeited to the city.[14] This proposal was approved by the

[11] *Ibid.*, pp. 14–15. The italicized words in brackets represent the amendments recommended by the commission. The old law made no provision for a filing fee and required only the filing of a petition signed "by not less than five hundred (500) registered and qualified voters residing in such district." Public Act No. 306, *Public Acts, 1929.*

[12] Public Act No. 200, *Public Acts, 1931.* Cf. previous act, cited in footnote 1 above.

[13] *Charter of the City of Detroit*, Title II, Chap. 2, sec. 3 (as amended April 6, 1931).

[14] *Ibid.*

people and, upon becoming effective April 15, 1931, won distinction as the first legal establishment of the filing fee in the state.[15]

Neither of these laws proved an effective deterrent to office-seekers. The state act was interpreted by election officials as applying only to candidates seeking nomination to the state legislature; and in almost all cases these candidates continued to qualify by use of the regular nominating petition. In the primary of 1932, out of a total of 194 candidates in the city of Detroit,[16] the fee was paid by five; and in 1934 only 19 out of a total of 206 qualified in like manner. The charter provision was equally ineffective; in the city primaries of 1931 and 1933, less than six and four per cent, respectively, gained a place on the ballot through the filing of fees. In the spring primary of 1935, the last conducted under the charter provisions of 1931, fees were paid by only 18 of the 88 candidates who were seeking nomination to judicial offices. Without question, a greater number of bona fide candidates in both sets of primaries would have paid the qualifying fees except for a general feeling that the circulation of petitions carried a certain political advantage which many feared to neglect.

The failure of these early attempts to shorten the primary ballots in no sense brought the principle involved into disrepute, but tended rather to emphasize its inherent possibilities and encourage the idea of completely supplanting the nominating petition with the filing fee as a means of qualification. The chaos wrought by the horde of office-seekers in the primaries of 1934 and 1935 awakened interest in a further application of the principle. Again, almost simultaneously, the state legislature and the city council sought through this means to rescue the primary in Wayne county from the deluge of office-seekers. As in the previous case, the state legislature was the first to initiate measures for further regulation, and again the city council succeeded in getting its recommendations approved before the general law became effective.

On February 12, a bill designed to extend the principle of the earlier act and definitely restrict the circulation of nominating petitions in Wayne county was introduced in the state legislature.[17] This measure was enacted over some objections but without amendment.[18] The law provides that in any county having a population of 500,000 or more (Wayne county) "candidates for county office or office in the state legis-

[15] The state law was approved by the governor on May 28, 1931, but did not become effective until near the middle of the following September.

[16] Seventeen members of the house of representatives are elected at large from the city of Detroit. Thus each party is entitled to nominate that number of candidates.

[17] House Bill No. 192, introduced by Mr. Fitzgerald, of Wayne. *Journal of the House*, 1935, p. 244.

[18] Approved May 17, 1935.

lature shall not file petitions, but shall deposit with the same official and at the same time as petitions are required to be filed in other counties of this state, a sum equal to $50 in case the combined salary for the full term of the office sought by the candidate is $3,000 or less, and $100 in case the combined salary for the full term of the office sought by the candidate is over $3,000.[19]

In an attempt to discourage frivolous candidates without unduly penalizing those who are well-intentioned, the law provides that "if a candidate at any such primary election shall have been nominated or shall have received fifty per cent of the total vote received by the winning candidate, the official with whom the deposit was made shall refund the deposit of any such candidate."[20] The deposits of those who fail to poll the minimum required vote are to be forfeited and such defeated candidates notified of the forfeiture.[21]

Two weeks after the introduction of this bill, the common council of Detroit passed a resolution initiating a charter amendment recommending the complete elimination of the signature petition as a means of qualifying for a place on the ballot in the primaries of that city. This proposal was overwhelmingly approved by the people and became effective in time to operate in the ensuing primary.[22] Although differing in details, the statement of this proposition bears a striking similarity to that of the state law.

The charter amendment provides that "no candidate's name shall be placed upon primary election ballots for nomination for any city office unless there shall be filed with the city clerk a nominating petition, and accompanying such petition there shall be deposited with the city clerk a fee in the sum of $100. In case of an office having no salary attached thereto, a nominating petition for such office may be filed with the city clerk if accompanying such petition there shall be deposited with the city clerk a fee in the sum of $50.[23] As in the state law, deposits are to be re-

[19] Public Act No. 60, *Public Acts, 1935.* [20] *Ibid.*

[21] *Ibid.* In the same session, a second law pertaining to the primary was enacted. "Any candidate filing petitions for any county, state, or national office in any primary election shall appear in person, within fifteen days after the filing of said petition, before the officer with whom said petitions were filed, and shall file with said officer a certified affidavit that he or she is the person filing petitions for any such office, giving his or her name, address, number of years of residence in the state and/or county, as the case may be, and such other information as shall be required to satisfy said officer as to the identity of any such candidate." In case any candidate fails to comply, his name is not to appear upon the ballot. The act is applicable only in counties having a population of 500,000 or more. Public Act. No. 249, *Public Acts, 1935.*

[22] Resolution adopted, Feb. 26; approved, Apr. 1; effective, Apr. 15.

[23] *Charter of the City of Detroit,* Title II, Chap. 2, sec. 3 (as amended April 1, 1935).

turned to all candidates who "shall have received a number of votes equal to not less than 50 per cent of the total vote cast for the successful nominee receiving the lowest number of votes for any office."[24] The deposits of all other defeated candidates are to be forfeited.

It is too early to appraise accurately the value of these acts or to foresee the extent to which they may eventually be accredited with having shortened the primary ballot; yet some observations may be made. Certainly these recent attempts to protect the primary from recognized abuses are at least meritorious steps in the right direction and are, without doubt, definitely superior to the earlier efforts. However, it is quite evident that each must undergo some revision. The fee required in the cases of minor county offices, the state legislature, and non-salaried city offices has undoubtedly been placed at too low a figure effectively to deter persistent self-seekers. This proposition, although partially refuted by the figures presented in Table III, becomes more evident when one considers that it is at these levels that irresponsible office-seekers are most active.[25] However, such upward revisions will have to be approached carefully in order to avoid popular protests and constitutional tests.

TABLE III

Office	*1931*		*1933*		*1935*	
	Candidates	*Fees*	*Candidates*	*Fees*	*Candidates*	*Fees*
Mayor (Nom. two)	8	3	12	2	5	5
Clerk (Nom. two)	4	2	5	1	2*	2
Treasurer (Nom. two)	3	2	12	5	4	4
Council (Nom. 18)	87	18	99	9	44	44
Constables (Nom. 4 in each ward)	367	0	370	0	109†	109
Total	469	25	498	17	164	164

* No contest in the primary.
† No contest in 12 of the 22 wards.

The state law may be criticized further on the ground that it is not sweeping enough in its application. This recognition of the seriousness of the situation in Wayne county should not be interpreted as a tacit denial of similar conditions in other sections of the state.[26] In view of conditions in some out-state counties, no reason—other than political expediency—can be advanced for restricting the operation of this act to a single

[24] *Ibid.* [25] See Tables I and II, *supra.*

[26] In a recent primary in one of the more populous up-state counties, well over 100 candidates sought nomination to the office of sheriff.

county. Likewise there is no sound justification for exempting circuit judgeships in Wayne county from the provisions of the law. No primary contest in the county ever produced a stranger array of candidates—many utterly unqualified—than did the so-called "judges primary" of 1935.[27]

To date, no opportunity has presented itself by which the effectiveness of the state law may be judged directly; but the recent city primary was controlled by the provisions of the charter amendment and the results, in that case, were highly gratifying. It is encouraging to note that the compulsory deposit had a salutary effect in those cases generally recognized as being conducive to abuses without producing unfortunate results in nominations less subject to abuse. The number of candidates seeking nomination in the wards as constables was reduced by about 70 per cent, and only about 50 per cent of the usual number of contestants qualified for council nominations. In the primaries of 1931 and 1933, as many as 30 candidates filed petitions seeking constable nominations in a single ward, and it was only in exceptional cases that a ward failed to produce a contest for this office; yet in 1935 there were contests in only 10 of the 22 wards, and in no case were there more than eight contestants. Making due allowances for the adverse criticisms noted above, the similarities of the acts justify the conclusion that the state law should prove equally effective in shortening the ballot in the county primary. At any rate, the first real test of the filing fee as a sole means of qualifying for a place on the ballot is highly encouraging.

In conclusion, we may well emphasize our original proposition, i.e., that the progress of the short ballot movement cannot be gauged accurately by a mere enumeration of the offices eliminated from the elective list. Influences and abuses not at once discernible may more than offset any gains thus realized. On the other hand, note must be taken of reforms which may have been accomplished without the elimination of a single elective post. Such has been the experience in Michigan, and the success of these efforts to shorten the primary ballot should not only encourage an extension of the principle invoked, but invite attention to the possibilities of simplification and reform at this stage of the electoral process.

HAROLD M. DORR.

University of Michigan.

State Legislation on Public Utilities in 1934–35. The trends in state public utilities legislation which were clearly discernible in 1933[1] con-

[27] See Tables I and II, *supra.*

[1] The outstanding features of the 1933 state public utilities laws were: "(1) reorganization of utilities commissions to the end that all regulatory functions may be

tinued in somewhat modified form in state legislation during the biennium 1934–35. Only a comparatively few out of the vast number of proposed utilities measures became law. The laws enacted, however, contain features which if adopted generally may have far-reaching effect upon the future of state regulation of public utilities. The intended effects of such features are: (1) to further the creation of public corporations empowered to furnish public utility services; (2) to establish a new method of utilities regulation in the form of contractual relations between the federal government or federal agencies on the one hand and public utilities corporations on the other; (3) to stimulate municipal ownership and operation of selected public utilities.

A survey of utilities legislation during the biennium under consideration must include also laws falling within the more familiar categories of utility enactments, the more important of which are: (1) regulation of holding companies; (2) modifications in and additions to the regulatory personnel; (3) increase in the powers and jurisdiction of the regulatory commissions; (4) requirement that utilities assume a larger share of the cost of regulation through assessment, fees, or taxation; and (5) appointment of committees or commissions to investigate and report to the legislature on current utilities problems.

I. PUBLIC CORPORATIONS[2]

Legislatures of several states have enacted legislation creating public corporations, distinct from the existing political units, empowered to own and operate public service enterprises. The legislatures have attempted

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concentrated in one or a few agencies; (2) increase in the regulatory authority vested in state commissions; (3) creation of a public counselor or attorney to protect the interest of the public in utilities cases before the commission and the courts; (4) regulation of holding companies and inter-company relations; (5) allocating to the utilities a portion of the cost of investigations and regulation; (6) increase in taxes . . . imposed upon utilities; and (7) provisions for public ownership—state, district, or municipal." See my "State Legislation on Public Utilities in 1933," in this REVIEW, February, 1934, p. 84.

[2] The Legal Division of the Federal Public Works Administration under Administrator Harold L. Ickes has played no small part in the development of the public corporation. Mr. E. H. Foley, Jr., director of the Legal Division of the Federal Emergency Administration of Public Works, says: "In December, 1934, the public corporation, as an instrumentality of state government for the purpose of meeting the vital social problems confronting the American nation, was formally recognized by the President of the United States. During that month the President wrote the governor of every state suggesting that the governor in formulating his legislative program might wish to consider the need for legislation which would enable the state through municipal and other public corporations to participate more fully in any additional public works program which the Seventy-fourth Congress might authorize." *PWA and Revenue Financing of Public Enterprises*, July 16, 1935, p. 7.

to clothe such corporations with broad powers, to be interpreted broadly by the courts. Such powers include especially the authority to purchase, lease, construct, finance, and operate *self-liquidating public service enterprises:* that is, enterprises to be financed by revenue derived solely from their own operation. Hence, the financial obligations of such corporations do not constitute debts of the regular units of government (state, county, city, or town). These special legal entities are created to serve the public as non-profit-making enterprises—devoid of the "incentive of the profit motive." The services which these corporations are empowered to furnish are of a character similar to that of the services hitherto generally furnished by private corporations; hence, such public corporations have been granted powers somewhat similar in nature to those usually granted to private corporations.

Public corporations as described above include: (1) rural electrification authorities;[3] (2) power districts;[4] (3) electric membership corporations;[5] and (4) improvement authorities.[6] The trends indicated by the legislation creating the several types of public corporations may be indicated through a survey of the laws of the several states noted below.

The end to be gained by the creation of these special legal entities is expressed clearly in the preamble to the act legalizing the creation of the Tennessee Rural Electrification Authorities, as follows: "for the purpose of promoting and encouraging the fullest possible use of electric energy in the state by making electric energy available to certain inhabitants of the state *at the lowest cost consistent with sound economy and prudent management.*"[7]

It was the purpose of the interested state legislatures, coöperating with federal agencies, to show by actual experience that low rates produce increased or mass consumption, especially in the field of electricity, and that such increased consumption, in turn, results in low costs, that "the *rate charged for electricity*, within wide limits, *determines the cost.*"[8] The legislation was enacted under the belief that, especially in the field of electricity, the traditional "fair value" principle of rate-making may be set aside for a new principle which recognizes a rate base founded on an

[3] Tennessee, *Acts*, 1st Special Session, 1935, Chap. 3, p. 63.

[4] *Ibid.* Chap. 4, p. 76. [5] *Ibid.* Chap. 32 (S.B. No. 17).

[6] Alabama, *Laws*, 1935, No. 40; South Dakota, *Acts*, 1935, S.B. 172; Florida, *Acts*, 1935, S.B. 1010.

[7] Tennessee, *Acts*, 1st Special Session, 1935, Chap. 3. According to the act, the corporate purpose is to "encourage and promote the fullest possible use of energy by all the inhabitants of the state by rendering service to said inhabitants, to whom energy is not available or in the opinion of the Board is not available at a reasonable rate." No. 3, Sec. 10.

[8] David E. Lilienthal (director of the Tennessee Valley Authority), in address before the American Historical Assoc. and American Political Science Assoc., Dec. 29, 1935.

"economic price." The application of the above "economic price," it is claimed, produces mass consumption and wide use and is economically justified by the resulting reduction in cost.[9]

The purpose outlined above had a decisive influence upon the form of public service corporations legalized, upon the powers granted to them, and especially upon the methods of regulation imposed on them.[10]

The significance of the laws creating the special types of public corporations for utilities services may be discovered, in part, by a study of the features held more or less in common by the several types.[11] The features which are sufficiently common to be accepted as characteristic of the public corporation created to furnish public utility services are:

Corporate Entity: The legislative act providing for the incorporation of the service usually provides that the corporation "shall be a public corporation in perpetuity and . . . shall be . . . a body politic and corporate with power of perpetual succession."[12]

Corporate Purpose: The purpose commonly stated in the laws is that services afforded by the incorporated enterprises shall be made available to consumers "at the lowest cost consistent with sound economy and prudent management." Improvement authorities were declared (South Dakota) to be "appropriate instrumentalities of the state, without power to tax but with adequate power to aid the state in the construction, financing, and administration of public enterprises the benefit of which will inure to the people of the state." The power district in Tennessee had for its corporate purpose not only "making available an abundant supply of electricity," but also "raising the standard of living, promoting more

[9] *Ibid.*

[10] See p. 10 below.

[11] For the types of public corporations created by state legislation in 1934–35, see p. 3 above.

[12] The following acts contain the substance of the provision here presented:

(a). Alabama, *Acts*, 1935, No. 40, Sec. 13. "Improvement Authorities Law."

(b). Tennessee, *Acts*, 1935, 1st Special Session, Chap. 3, Sec. 3. "State Rural Electrification Act."

(c). Alabama, *Acts*, 1935, No. 47, Sec. 3. "State Rural Electrification Act."

(d). Tennessee, *Acts*, 1935, 1st Special Session, Chap. 32, Sec. 4. "Electric Membership Corporation Act."

(e). *Ibid.* Chap. 4, Sec. 14. "Power District Act." The power district was declared to be a municipal corporation and a "non-utility."

(f). South Dakota, *Acts*, 1935, S.B. 172, Sec. 14. "Improvement Authorities Act."

(g). Indiana, *Acts*, 1935, Chap. 175, Sec. 21. "Rural Electric Membership Corporation Act."

(h). South Carolina, *Acts*, 1935, No. 65, Sec. 3. "State Rural Electrification Authority Act."

(i). California, *Laws*, 1933, Chap. 999, amending Act of May 31, 1921.

efficient use of agricultural resources, and providing employment."[13]

Non-Profit-Making Corporation: Such public corporations are usually set up under the regulation that they are "not organized for pecuniary profit, and shall not be operated as a source of revenue either for the local units of government or for the state." Usually any surplus accruing must be returned to the members or devoted solely to the reduction of rates.[14]

Broad or General Grant of Powers: The framers of the laws creating public corporations under consideration evidently attempted so to form the legislation that the courts would be influenced to set aside the traditional narrow interpretation of powers granted by legislation to subordinate political entities and adopt a broad interpretation of such grants of powers. The following principle is found in substance in the laws cited below: The authority is empowered "to do all acts *necessary*, *proper*, or *convenient* in the exercise of the powers granted under this act. No enumeration of particular powers hereby granted shall be construed to impair any general grant of power herein contained."[15]

Self-Liquidating Corporations: A feature which distinguishes many of

[13] Corporate purposes similar to the examples given above are found in:
(a). South Dakota, *Acts*, S.B. No. 172, Sec. 2. "Improvement Authorities Law."
(b). Tennessee, *Acts*, 1935, 1st Special Session, Chap. 32, Sec. 1. "Electric Membership Corporation Act."
(c). *Ibid.* Chap. 4, Sec. 2. "Power District Act."
(d). *Ibid.* Chap. 3, Sec. 10. "Rural Electrification Authority Act."
(e). Indiana, *Acts*, 1935, Chap. 175, Sec. 2. "Rural Electric Membership Corporation Act."
(f). North Carolina, *Acts*, 1935, S.B. 427, Sec. 3. "Electric Membership Corporation Act."
(g). South Carolina, *Acts*, 1935, No. 65, Sec. 5. "State Rural Electrification Act."
(h). Alabama, *Acts*, 1935, No. 40, Sec. 25. "Improvement Authorities Law."
(i). *Ibid.* No. 42, Sec. 1. "Power District Act."
(j). *Ibid.* No. 45, Sec. 2. "Electric Membership Corporation Act."
(k). *Ibid.* No. 47, Sec. 10. "State Rural Electrification Authority Act."

[14] Acts listed below contain in substance such provisions:
(a). Alabama, *Acts*, 1935, No. 45, Sec. 1. "Electric Membership Corporation Act."
(b). *Ibid.* No. 47, Sec. 16. "State Rural Electrification Act."
(c). Tennessee, *Acts*, 1935, 1st Special Session, Chap. 32, Secs. 19 and 22. "Electric Membership Corporation Act."
(d). *Ibid.* Chap. 4, Sec. 15. "Power District Act." Surplus devoted solely to reduction in rates.
(e). *Ibid.* Chap. 3, Sec. 17. "Rural Electrification Authority Act."
(f). South Carolina, *Acts*, 1935, No. 65, Sec. 11. "State Rural Electrification Authority Act."
(g). Indiana, *Acts*, 1935, Chap. 175, Secs. 2 and 17. "Rural Electric Membership Corporation Act." Any surplus is to be returned to members on a pro-rata basis according to the amount of energy consumed.

[15] (a). Alabama, *Acts*, 1935, No. 40, Sec. 25. "Improvement Authority Law."
(b). *Ibid.* No. 42, Sec. 4. "Power District Act."

the public corporations, created to furnish public utilities services, from other subordinate units of government is that the corporation is denied the power to tax, and furthermore, is obliged to meet expenditures and debt obligations from revenues received from the operation of the utility. In other words, the utilities are to be self-supporting as to operating expenditures and self-liquidating as to bonds and mortgages.[16]

Power of Eminent Domain: Public corporations providing utilities services are generally granted the authority to acquire property through the exercise of the right of eminent domain, and in some cases, notably in Tennessee, it is provided that the power of eminent domain extends to property belonging to other corporations exercising the power of eminent domain under earlier enactments or charters. The laws cited below are the best examples of recent legislation on that subject.[17]

(c). *Ibid.* No. 45, Sec. 10. "Electric Membership Corporation Act."

(d). *Ibid.* No. 47, Sec. 11. "Rural Electrification Authority Act." The act grants "all powers necessary or requisite for the accomplishment of its corporate purpose and capable of being delegated by the legislature of the state."

(e). *Ibid.* Sec. 12 (Item 13). "Rural Electrification Authority Act." Power was granted "to do any and all acts and things herein authorized or necessary or convenient to carry out the powers expressly given in this act . . . "

(f). Tennessee, *Acts*, 1935, 1st Special Session, Chap. 32, Sec. 11. "Electric Membership Corporation Act."

(g). *Ibid.* Chap. 4, Sec. 8. "Power District Law."

(h). *Ibid.* Chap. 3, Sec. 10. "Rural Electrification Authority Act."

(i). South Dakota, *Acts*, 1935, S.B. 172, Sec. 27 (Item 6). "Improvement Authorities Act."

(j). North Carolina, *Acts*, 1935, S.B. 427, Sec. 18. "Electric Membership Corporation Act."

(k). South Carolina, *Acts*, 1935, No. 65, Secs. 6–7. "State Rural Electrification Authority Act."

[16] Self-liquidating corporations were legalized by the following acts:

(a). South Carolina, *Acts*, 1935, No. 65, Sec. 10. "State Rural Electrification Authority Act." The act provides that "no holder or holders of any bonds issued under this act shall ever have the right to compel any exercise of the taxing power of the state, or of any political subdivision thereof, to pay said bonds or the interest thereon. Each bond issued under this act, . . . including the interest thereon, is payable from the revenues pledged to the payment thereof, and that said bond does not constitute a debt of the state."

(b). Alabama, *Acts*, 1935, No. 40, Sec. 30. "Improvement Authority Act."

(c). *Ibid.* No. 47, Sec. 15. "State Rural Electrification Authority Act."

(d). Tennessee, *Acts*, 1935, 1st Special Session, Chap. 3, Secs. 16 and 19. "Rural Electrification Authority Act." All or any part of the revenues was pledged as security of bonds.

(e). South Dakota, *Acts*, 1935, S.B. 172, Sec. 31. "Improvement Authorities Act."

(f). North Carolina, *Acts*, 1935, S.B. 427, Sec. 12. "Electric Membership Corporation Act."

[17] Acts granting to public corporations the exercise of the right of eminent domain:

It should be noted here that the services to be furnished by the public corporations discussed above include electric light, heat and power, gas, water, telephone, and, in some instances, sewerage plants.

Regulation by Contract: A new method of regulating rates, services, accounting, and other financial practices of the public corporations providing public utility services has appeared. Regulation by contract between federal agencies on the one hand and the state or local public corporation on the other has been substituted in certain cases for regulation by state public service commissions. It is significant that this contractual method is based, for its constitutional validity, solely on state law and not upon any federal enactment.

The most complete development of this new method of regulation is found in the 1935 legislation of the state of Tennessee. The movement to transfer regulation of utilities in the important and growing field of public corporations from state agencies (including the legislature) to federal agencies, contracting with local public agencies, was inaugurated by an act of the general assembly of Tennessee in February, 1935. The act declares that such public corporations, entitled "non-utilities," should not be subject to the jurisdiction of the state railroad and public utilities commission.[18]

Following the enactment of the above law, the Tennessee legislature established the principle of control by contract in the series of acts which created public corporations and which empowered existing public entities (counties, cities, and towns) to own and operate public service enterprises. The principle of contract is expressed as follows: The corporation is

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(a). Alabama, *Acts*, 1935, No. 40, Sec. 26. "Improvement Authorities Law."

(b). *Ibid.* No. 42, Sec. 4. "Power District Act."

(c). Tennessee, *Acts*, 1st Special Session, Chap. 4, Sec. 8 (Item 3); Sec. 18. "Power District Law."

(d). *Ibid.* Chap. 32, Sec. 12. "Electric Membership Corporation Act."

(e). *Ibid.* Chap. 3, Sec. 11 (Item 12). "Rural Electrification Authority Act."

(f). South Dakota, *Acts*, 1935, S.B. 172, Sec. 27 (Item 3). "Improvement Authorities Law."

(g). South Carolina, *Acts*, 1935, No. 65, Sec. 7 (Item 13). "State Rural Electrification Authority Act."

[18] Tennessee, *Acts*, 1935, Chap. 42. The corporations excluded from the power and jurisdiction of the Railroad and Public Utilities Commission are: "(a) any corporation owned by, or any agency or instrumentality of, the United States; (b) any county, municipal corporation, or other subdivision of the state of Tennessee; (c) any corporation owned by, or any agency or instrumentality of, the state of Tennessee; (d) any corporation or joint stock company, more than fifty per cent of the voting stock or shares of which is owned by the United States, the state of Tennessee, or any 'non-utility' referred to in (a), (b), or (c) hereof; (e) any corporation, organization, association, or corporation not organized or doing business for profit; and (f) any of the foregoing non-utilities acting jointly or in combination or through a joint agency or instrumentality."

empowered "to contract with . . . the United States of America, the President of the United States of America, Tennessee Valley Authority, the Federal Emergency Administration of Public Works, and any and all other authorities, agencies, and instrumentalities of the United States of America, and in connection with such contract, to stipulate and agree to such covenants, terms, and conditions as the governing body may deem appropriate, including, but without limitation, covenants, terms, and conditions with respect to *re-sale rates, financing and accounting methods, services, operation and maintenance practices, and the manner of disposition of the revenues. . . .*"[19]

The principle of regulation by contract is also incorporated in the law of South Carolina creating a state Rural Electrification Authority.[20] South Carolina likewise denies regulatory jurisdiction to the regular public service commission as follows: "Rates charged for the services and facilities afforded by the Authority . . . shall not be subject to supervision or regulation by any other state bureau, board, commission, or like instrumentality or agency thereof. . . ."[21] Rates for energy furnished by a private enterprise to the Authority, however, shall be prescribed by the South Carolina Public Service Commission.[22]

The Electric Membership Corporations of North Carolina are authorized to enter into such contractual relations with federal agencies.[23]

The legislature of Indiana, in the Rural Electric Membership Corporation Act, embodied the exact wording of the Tennessee acts mentioned above, but added a very significant modifying clause to the portion of the contract clause relating to fixing of rates, fees, or charges. The corporation was authorized "to contract with . . . federal agencies for the purchase of energy . . . for the conduct of the business of the corporation . . . for the fixing of the rates, fees, or charges for the services rendered or to be rendered by the corporation, *subject, however, to the approval of the Public Service Commission* as to all such rates, fees, or charges, in the same manner and to the same extent as is provided by law for the regulation of rates, fees, or charges of public utilities."[24]

[19] Tennessee, *Acts*, 1935, 1st Special Session, Chap. 33, Sec. 4 (Item 6). "Revenue Bond Act." Similar provisions are found in the following acts of Tennessee:

(a). Tennessee, *Acts*, 1935, 1st Special Session, Chap. 32, Sec. 12 (Item 8). "Electric Membership Corporation Act."

(b). *Ibid.*, Chap. 4, Sec. 10 (Item 7). "Power District Law."

(c). *Ibid.*, Chap. 3, Sec. 12 (Item 13). "State Rural Electrification Authority."

(d). *Ibid.*, Regular Session, Chap. 32, Sec. 3 (Item g). "Municipal Electric Plant Act."

[20] South Carolina, *Acts*, 1935, No. 65, Sec. 7 (Item 12).

[21] *Ibid.*, Sec. 15.

[22] *Ibid.*, Sec. 16.

[23] North Carolina, *Acts*, 1935, S.B. No. 427, Sec. 11 (Item h).

[24] Indiana, *Acts*, 1935, Chap. 175, Sec. 11 (Item h).

The effectiveness of rate regulation by contract, entered into between the Indiana Electric Membership Corporation and a federal authority, seems extremely doubtful if the rates so fixed by contract may be modified by a state public service commission, acting under the traditional theory of "fair value" as a basis for rate-making.

The public corporations created to provide public utility services in Alabama and Tennessee are further freed from the regulation of state commissions by the provision that such corporations are not required to obtain a certificate of *convenience and necessity* from the state public service commissions.[25]

State control over the field of utility services under consideration is further limited by an agreement made through legislative enactment with the bondholders who have purchased obligations of the public corporations. The state pledges and agrees with the bondholders not to limit or alter the rights and powers vested in the authority issuing the bonds in such a manner as to impair in any way the rights and remedies of the holders of such bonds.[26]

The extent of regulation through contracts and the method of effecting such regulation may be observed from a summary of the more significant provisions in the contracts between the municipalities, or other public corporations, and the Tennessee Valley Authority.

Rates to consumers are regulated by means of the "resale rates" clause of the contract. The municipality or other public corporation agrees to charge all of its consumers the rates prescribed in a schedule attached to and made a part of the contract. It agrees not to depart from such rates except with the written consent of the TVA and to be bound by additional resale schedules prescribed for special classes of customers by the TVA. The TVA contracts to consent to changes in the rates set up in the schedule "if it should appear that the rates . . . do not under economic and efficient management . . . produce revenues sufficient to maintain the system on a self-supporting and financially sound basis."[27]

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[25] For example: Alabama, *Acts*, 1935, No. 40, Sec. 33. "Improvement Authority Act"; Tennessee, *Acts*, 1935, Regular Session, No. 42. "Act Limiting Jurisdiction of the Railroad and Public Utilities Commission."

[26] (a). Alabama, *Acts*, 1935, No. 40, Sec. 34. "Improvement Authorities Law."
(b). *Ibid.* No. 47, Sec. 17. "Rural Electrification Authority Act."
(c). Tennessee, *Acts*, 1935, 1st Special Session, Chap. 3, Sec. 18.
(d). South Carolina, *Acts*, 1935, No. 65, Sec. 12. "State Rural Electrification Authority Act."

[27] The standard residential rates contained in the schedule attached to the contract between the TVA and the city of Knoxville is as follows:

First 50 Kilowatt hours per month at 3c per K.W.H.
Next 150 Kilowatt hours per month at 2c per K.W.H.

The regulation of administrative practices, accounting methods, valuation of utility property, use and distribution of revenues, and loan and debt policies is likewise established through the contracts made between the TVA and the several municipalities and other public corporations in the Tennessee Valley Area.[28]

II. LEGISLATION INTENDED TO STIMULATE MUNICIPAL OWNERSHIP AND OPERATION

The legislation which was enacted to stimulate or make possible municipal ownership and operation of public utilities falls logically into four categories: (1) acts authorizing municipalities to own and operate public utility enterprises; (2) acts providing for the issue by municipalities of revenue bonds; (3) acts empowering a municipality owning and operating public utilities to extend its services beyond the corporate limits; and (4) acts authorizing municipalities to incur debts and contract with federal agencies for federal assistance under the federal emergency relief acts.

Laws legalizing, for the first time, municipal ownership of public utilities or greatly extending such authority were enacted by the legislatures of a number of states, including New York,[29] Indiana,[30] South Dakota,[31] Tennessee,[32] Arkansas,[33] New Hampshire,[34] and West Virginia.[35]

In most instances, the authority to own and operate public utilities embraces those services defined by law as comprising public utilities.

Next 200 Kilowatt hours per month at 1c per K.W.H.
Next 1000 Kilowatt hours per month at 0.4c per K.W.H.
Excess over 1400 Kilowatt hours per month at 0.75c per K.W.H.

It is interesting to note that the same residential rates were agreed to in a contract between the TVA and the Lincoln County (Tenn.) Electric Membership Corporation.

[28] Contracts which have been examined by the writer include those between the TVA and the following local authorities: (a) city of Dayton, Tenn. (Sept. 12, 1934; May 1, 1935); (b) city of Knoxville, Tenn. (March 1, 1934); (c) town of Pulaski, Tenn. (Aug. 23, 1935); (d) city of Memphis, Tenn. (Nov. 23, 1935); (e) Lincoln County Electric Membership Corporation (Sept. 26, 1935); (f) Monroe county, Miss., Electric Power Association (July 19, 1935); (g) Tishomingo county, Miss., Electric Power Association (July 19, 1935); (h) city of Tupelo, Miss. (Feb. 6, 1934); (i) city of Okolona, Miss. (April 23, 1935); (j) city of Amory, Miss. (Mar. 15, 1935); (k) city of Muscle Shoals, Ala. (Jan. 19, 1935); and (l) city of Athens, Ala. (April 6, 1934).

[29] New York, *Laws*, 1934, Chap. 281.

[30] Indiana, *Laws*, 1935, Chap. 293.

[31] South Dakota, *Acts*, 1935, S.B. No. 177.

[32] Tennessee, *Acts*, 1935, No. 32.

[33] Arkansas, *Acts*, 1935, No. 324.

[34] New Hampshire, *Acts*, 1935, Chap. 153.

[35] West Virginia, *Laws*, 1935, H.B. No. 165.

The New York law, however, applies only to gas and electric services. Existing privately owned utilities in most instances are subject to purchase or condemnation by the municipality. The authority to purchase or condemn private property is usually subject to approval of the electors voting on the subject.[36] The state of Washington, however, specifically provides that municipalities may issue public utility bonds without submitting the proposition to popular vote.[37]

The laws of New York and South Dakota provide that a certificate of convenience and necessity issued by the state public utilities commission is not required as a condition for a municipality to establish a designated public utility service.[38]

The numerous so-called municipal revenue bond acts greatly facilitate the growth of municipal ownership of public utilities. Such laws exempt municipalities from the statutory debt limits in case the bonds or debt obligations are issued to finance revenue-producing or self-liquidating services. The revenue bond acts usually provide: (a) that bonds shall be "paid solely and exclusively from income and revenue of the public utility . . . , shall not in any respect be a corporate obligation or indebtedness of such city,"[39] and "shall not be included in computing indebtedness of the municipality."[40] Several additional states, under earlier laws, permit financing of revenue-producing utilities out of earnings. It is reported that in Iowa, in 1935, nineteen municipal utility plants were being financed by earnings.[41]

The Tennessee law provides a notable exception in one respect to the usual provisions in municipal bond acts. Although the municipality may issue public utilities bonds on pledge of earnings, it may also "pledge the full faith and credit and *unlimited taxing power* of the municipality to the punctual payment of the principal and interest on such bonds."[42]

[36] See especially: Arkansas, *Acts*, 1935, No. 324, Sec. 48; New York, *Laws*, 1934, Chap. 281; New Hampshire, *Acts*, 1935, Chap. 153, Sec. 2; Vermont, *Acts*, 1935, No. 70. New Hampshire cities may "acquire, maintain, and operate gas and electric plants and distributing systems only after a two-thirds vote of the members of the council, confirmed by a majority vote of the electors, while a town may do so only after the approval of two-thirds of the electors voting on the subject.

[37] Washington, *Acts*, 1935, Chap. 107, Sec. 3.

[38] New York, *Laws*, 1934, Chap. 281; South Dakota, *Acts*, 1935, S.B. 177.

[39] Indiana, *Laws*, 1935, Chap. 311.

[40] Louisiana, *Acts*, 1935, Extraordinary Session, No. 12. Similar provisions are contained in the following acts: (a) Mississippi, *Acts*, 1934, Chap. 317; (b) Nebraska, *Acts*, 1935, Chap. 38; (c) New Jersey, *Laws*, 1935, Chap. 77; (d) Vermont, *Acts*, 1935, No. 67; (e) Wisconsin, *Acts*, 1935, Chap. 531; (f) West Virginia, *Laws*, 1935, H.B. No. 165; (g) New Mexico, *Laws*, 1934, Chap. 4; (h) North Carolina, *Acts*, 1935, H.B. 1060; (i) South Carolina, *Acts*, 1933, No. 236; 1934, Nos. 740 and 798; (j) South Dakota, *Acts*, 1935, S.B. 177; and (k) Utah, *Acts*, 1935, S.B. 225.

[41] Natural Resources Board, 1935, *State Planning*, p. 196.

[42] Tennessee, *Acts*, 1935, Regular Session, Chap. 32, Sec. 8a.

Municipal ownership was encouraged in several states by legislation providing that the municipality may extend its utility services beyond its corporate limits. Municipalities in Minnesota may sell light and power to customers within a distance of 30 miles from the municipal boundary, after the right to sell has been approved by a two-thirds vote of the governing body and by a majority vote of the electors.[43] Municipalities in Arkansas may extend public utility services to the rural territory contiguous to the municipality, after approval has been granted by the state public service department.[44]

The New York law permits surplus electric energy to be sold outside of the municipal corporate limits "to persons, public or private corporations, and to other municipalities . . . except that when the municipality is already being served, such extension shall not be effected without the approval of the Public Service Commission."[45] Municipal corporations of Oklahoma are permitted to extend their electricity lines and natural gas mains beyond their corporate limits and sell their services both to public and to private interests.[46] Municipal utilities in general, in Indiana, were authorized to extend their services beyond the limits of the corporation to a distance of six miles "or within the county."[47] Ten miles beyond the territorial boundaries is the limit to which South Dakota permits municipalities to extend the services of all their "revenue-producing undertakings."[48] The laws of Mississippi and Louisiana permit a municipality to acquire and operate revenue-producing utilities "within or without the limits of the municipality."[49]

Laws permitting municipalities to accept the assistance offered by the federal government in the various emergency recovery acts were quite generally adopted by the states considered above. Legislation relative to municipal ownership usually provides that the municipality may contract debts, issue bonds, and enter into agreements with federal agents as a condition for receiving federal financial aid in acquiring public utilities.[50]

III. REGULATION OF HOLDING COMPANIES

Holding-company regulation, which occupied such a prominent position in the state legislation of 1933,[51] appeared in much less volume in the

[43] Minnesota, *Laws*, 1935, Chap. 316, Sec. 1.
[44] Arkansas, *Acts*, 1935, No. 324, Sec. 45.
[45] New York, *Laws*, 1934, Chap. 281.
[46] Oklahoma, *Laws*, 1935, Chap. 33.
[47] Indiana, *Laws*, 1935, Chap. 293.
[48] South Dakota, *Acts*, 1935, S.B. 177.
[49] Louisiana, *Acts*, 1935, Extraordinary Session, No. 12; Mississippi, *Acts*, 1935, Chap. 317, Sec. 2.
[50] See especially the following acts: Maryland, *Acts*, 1935, Chap. 393; Mississippi, *Acts*, 1935, Chap. 316; and Washington, *Acts*, 1935, Chap. 107.
[51] See this REVIEW, February, 1934, pp. 87–88.

biennium under consideration. This was the result, perhaps, of the action of the federal government relative to holding companies. Legislation of considerable importance on the subject of holding companies and intercompany relations was enacted, however, in several states, notably New York, Connecticut, Massachusetts, Illinois, and New Jersey.

Governor Lehman in 1934 finally succeeded in securing, for the state of New York, the passage of the major portion of his public utilities program. Not least among the items of the program is legislation creating or increasing the regulatory power of the Public Service Commission and the Transit Commission in relation to the conduct of holding companies. The significant features of such regulation include: (a) power to require the disclosure of the identity of every owner of any substantial interest in the voting stock of utility companies;[52] (b) access to accounts and records of affiliated interests; (c) authority to require reports to be submitted by affiliated interests;[53] (d) requirement that contracts for management, construction, engineering, etc., must be filed with the commission, which is empowered to disallow such contracts if they are not reasonable as to cost, and if they are not in the public interest.[54]

Connecticut, through legislation, attempted to protect itself against the influence of foreign holding companies and to make unnecessary, or more difficult, any attempted federal control of utilities operating within the state. No public service company may "merge, consolidate, or make common stock" with another company without the approval of the Public Service Commission.[55] "No . . . holding company . . . purporting to act under any governmental authority other than that of this state . . . shall interfere with or attempt to interfere with or exercise authority or control over any gas, electric, or water company incorporated by this state and engaged in the business of supplying service within this state, or with or over any holding company incorporated by this state and doing the principal part of its business within this state, without having first obtained the approval of the commission, except as the United States may properly regulate actual transactions in interstate commerce."[56]

The Department of Public Utilities in Massachusetts is granted additional powers over the relation between an "affiliated company"[57] and operating companies in the field of gas and electricity. All financial agreements and transactions between such companies are "subject to review and investigation by the department." All "affiliated companies" having

[52] New York, *Laws*, 1934, Chap. 280.
[53] *Ibid.*
[54] *Ibid.*, Chap. 279.
[55] Connecticut, *Acts*, 1935, Chap. 191, Sec. 3.
[56] *Ibid.*, Sec. 6.
[57] Massachusetts, *Laws*, 1935, Chap. 335, Sec. 2.

financial relations with gas or electric companies are required to submit to the department reports in the form prescribed by it.[58]

The public utilities act of Illinois, as amended in 1935, gives the public utilities commission jurisdiction over "affiliated interests" having transactions with public utilities under the jurisdiction of the commission, as follows: access to accounts and records bearing on relations between such affiliated interests and the operating companies; power to require reports; authority over contracts relating to management, engineering, service, etc., between affiliated interests and operating companies. Such contracts must be filed with the commission and receive the commission's approval before they are deemed to be legal.[59]

The legislature of New Jersey, in 1935, provided for more effective regulation of holding companies. No public utility may make a contract for expenditures exceeding $25,000 with an affiliated person or corporation (one holding 5 per cent or more of the capital stock) without the "approval in writing of the Board of Public Utility Commissioners."[60] The commission is required to disapprove such a contract if in its judgment the contract violates the laws of New Jersey or of the United States, or is unreasonable or contrary to the public interest.[61] Loans between affiliated utilities may be made only with the approval of the Board of Public Utility Commissioners.[62]

Every public utility in New Jersey is required to keep within the state all pertinent records and not remove them from the state without permission of the Board of Public Utility Commissioners, and to designate an agent within the state upon whom process for the production of the records, etc., before the board may be served.[63] The Public Utility Commission is granted authority to compel by service of its subpoena the production of records, contracts, etc., respecting any relations between affiliated public utilities.[64]

IV. OTHER FORMS OF REGULATION

Modifications in and Additions to Administrative Personnel. Comparatively few states made changes in the personnel of their public service commissions and staff.

Utah ended her experiment with a commission of one full-time member, a part-time member, and an *ex officio* member, and restored the commission of three full-time members, to be appointed by the governor with the advice and consent of the senate for six-year overlapping terms.[65]

Kentucky was the only state during the biennium to join the other states having public service commissions. Transportation utilities in

[58] *Ibid.*, Sec. 1. [59] Illinois, *Laws*, 1935, H.B. No. 146.
[60] New Jersey, *Laws*, 1935, Chap. 44, Sec. 1.
[61] *Ibid.*, Sec. 2. [62] *Ibid.*, Chap. 45. [63] *Ibid.*, Chap. 62. [64] *Ibid.*, Chap. 53.
[65] Utah, *Laws*, 1935, Chap. 63.

Kentucky are still under the jurisdiction of the Railroad Commission. The Kentucky Public Service Commission consists of the usual three members, appointed by the governor with senate approval for four-year overlapping terms.[66] Removal by the governor is subject to an appeal to the courts; and the governor's power over the commission is further limited by the provision that not more than two of the commissioners shall be members of the same political party.[67]

The most notable reorganization of utility regulatory agencies in 1935 was carried out in Arkansas. A "Department of Public Utilities" is created within the structure of the Corporation Commission. The commission consists of three members appointed by the governor with the senate's approval, for six-year overlapping terms. The Department is authorized to take over and continue the functions recently exercised by the Fact-Finding Tribunal.[68] The law provides that one member shall be a lawyer. The annual salary of the commissioners is fixed at $5,000.[69]

The Rhode Island Public Utilities Commission has been made the Division of Public Utilities of the Department of Taxation and Regulation. Its new name and its position in the administrative reorganization signify no functional changes.[70] The chief of the Division of Public Utilities and the superintendents of the bureau of regulation and of the bureau of rates and tariffs (comprising the public utilities division), are appointed by the Director of Taxation.

The Alabama legislature created the position of the "people's public service attorney," the incumbent to represent the public in hearings before the public service commission and in cases before the courts.[71]

Increase in the Powers and Jurisdiction of the Regulatory Commissions.[72] The power of commissions over rate procedure, suspension of rates, and emergency rate reductions is increased in several states, namely, Arkansas,[73] New Jersey,[74] North Dakota,[75] and South Carolina.[76] More significant legislation, however, provides for, or increases, control over security issues and dividend payments. Such legislation was enacted in Massachusetts,[77] Connecticut,[78] New Jersey,[79] Illinois,[80] Arkansas,[81] and Utah.[82]

[66] Kentucky, *Acts*, 1934, Chap. 145, Sec. 2b.
[67] *Ibid.*
[68] Arkansas, *Acts*, 1935, No. 324, Sec. 2.
[69] *Ibid.*, Sec. 3.
[70] Rhode Island, *Laws*, 1935, Chap. 2250; New Administrative Code, Sec. 72.
[71] Alabama, *Acts*, 1935, H.B. No. 731.
[72] Space allotted to this article does not permit an adequate detailed treatment of this and the following topics. For increased power over holding companies, see above, pages 533–535.
[73] Arkansas, *Acts*, 1935, No. 23.
[74] New Jersey, *Laws*, 1935, Chap. 49.
[75] North Dakota, *Laws*, 1935, Chap. 253, Sec. 2.
[76] South Carolina, *Acts*, 1935, No. 23.
[77] Massachusetts, *Laws*, 1935, Chap. 222.
[78] Connecticut, *Laws*, 1935, Chap. 196.
[79] New Jersey, *Laws*, 1935, Chap. 61.
[80] Illinois, *Laws*, 1935, p. 1096.
[81] Arkansas, *Acts*, 1935, No. 324.
[82] Utah, *Laws*, 1935, Chap. 67.

Requirement that Utilities Assume a Larger Share of the Cost of Regulation through Assessment, Fees, or Taxation. States during the biennium 1934–35 continued to join the ranks of those which assess a part or the whole cost of regulation upon utilities companies.[83] The regulatory powers of the commission were strengthened financially during the past two years, through additional support in the form of assessments and increased taxes from utilities, in the following states: California,[84] Colorado,[85] Illinois,[86] Kansas,[87] Louisiana,[88] New Jersey,[89] New York,[90] North Carolina,[91] North Dakota,[92] Oklahoma,[93] and West Virginia.[94]

Conclusion: The enactment of laws in 1934–35, and the appointment of committees[95] of investigation, to the end that the duties of the public utilities commissions may be performed more effectively, indicate that confidence is still widely held in the commission system of regulating industries affected with a public interest. On the other hand, the increase and variety of public corporations empowered to furnish public utility services, and the divorcing of such services from the regulation and control of the traditional public service commissions, introduce elements of uncertainty in the field of utility regulation.

At present, it would appear that federal-state relations concerning the development and control of public utilities must be defined more exactly before the status of public utility commissions can be clearly determined.

ORREN C. HORMELL.

Bowdoin College.

The Issue of Constitutional Amendment in Rhode Island. On March 10, 1936, Rhode Island held a constitutional convention referendum for the first time since 1853. With what proved to be nearly everywhere a

[83] The trend was reversed, however, in Massachusetts, where the legislature repealed the law imposing assessment for a portion of the cost of the administration of the public utilities department upon gas and electric plants (private and municipal). Massachusetts, *Laws*, 1935, Chap. 411.

[84] California, *Laws*, 1935, Chap. 683.

[85] Colorado, *Laws*, 1935, Chap. 189, Sec. 4b.

[86] Illinois, *Laws*, 1935, S.B. 209 (p. 1195).

[87] Kansas, *Laws*, 1935, Chap. 267.

[88] Louisiana, *Acts*, 1935, Second Extraordinary Session, No. 26.

[89] New Jersey, *Laws*, 1935, Chap. 144.

[90] New York, *Laws*, 1934, Chaps. 282, 286.

[91] North Carolina, *Laws*, 1935, Chap. 371.

[92] North Dakota, *Laws*, 1935, Chap. 276.

[93] Oklahoma, *Laws*, 1935, Chap. 66, Sec. 4.

[94] West Virginia, *Acts*, 1935, S.B. 146.

[95] Such investigating committees were authorized to report their findings and recommendations to the legislature or to the governor in California, Massachusetts, Minnesota, New York, North Dakota, and Vermont.

straight party set-up, the Republicans defeated the proposal for a convention by about 12,000 votes in a total of some 183,000. The principal issue was increased representation of the cities in the senate, although other changes in the state government were also given some attention. The contest for equality of representation in Rhode Island goes back at least to 1811. Under the present constitution, up until five years ago each city and town had one senator in a total of 39. Now Providence has four in a total of 42, although its population is 37 per cent of that of the state. No other city or town has more than one, although they vary in population from Pawtucket with 77,149 to West Greenwich with 402. Even in the house, Providence is entitled to only 25 per cent of the seats. With the increasing strength of the Democrats in the cities, the Republicans are naturally concerned to maintain the present representation. The small towns are anxious to keep their power; but that there is more to it than this is indicated by the fact that about a third of all the small-town senators have offices in Providence.

Constitutional questions in Rhode Island have always been party issues. Even in the Dorr days, it was Democrat against Whig, Dorr himself changing his party affiliation when he became interested in constitutional reform. At that time, the question was mainly the suffrage, but in the intervening years this issue has been virtually settled. The only remaining remnant of the old forty-pound freehold qualification is in the towns, where a tax payment of $134, the equivalent of forty pounds at the time of the Revolution, is still necessary for admission to the so-called financial town-meetings.

To bring about other reforms, the Democrats have long advocated a constitutional convention. To go back no further, this was the issue in 1924. The excitement of that winter finally culminated in a three-day continuous session of the senate engineered against the Republican majority by the Democratic lieutenant-governor presiding *ex officio*. The filibuster was finally broken by a stink-bomb mysteriously set off in the chamber, and the Republican members fled from the state for the remainder of the year so as to produce a permanent no-quorum.[1]

The election of 1934 produced a Democratic majority in the house, but a very close division in the senate. By his power of recognition, the present Democratic lieutenant-governor was able to settle some seating contests so as to give his party a small majority. A convention plank had appeared in the Democratic party platforms of both 1932 and 1934. Differences within the party, however, in 1935 killed in the senate the convention bill which had passed the house. In 1936, three Democrats from the small towns were obdurate, in spite of the fact that to help win over the country towns a provision had been written into the bill prohibiting the

[1] See article by the author in *National Municipal Review*, Sept., 1924.

proposed convention from reducing the representation of any city or town. Finally, after an all-day and all-night session on January 9, and after a long conference in the governor's office, one of these Democrats switched. The result was a tie vote at one o'clock in the morning, promptly settled by the lieutenant-governor's casting vote. A Republican member who was ill had arrived at the state-house with a trained nurse and stayed on a bed in a room adjoining the senate chamber until late afternoon, leaving only when it seemed improbable that any vote would be reached that day.

The convention bill provided for a referendum and at the same time for an election of delegates, who were apportioned to cities and towns roughly according to population. Voting, however, was to be at large. Residence was not required, although no person could be a candidate in more than one city or town. This would give Democrats living in Republican towns a chance to be elected. Although party designations were forbidden, lists could be made up and placed under a circle so as to be voted for by means of a single cross. With their control in Providence and some of the other cities, the system was almost certain to produce a majority for the Democrats. As a matter of fact, it did so, despite the heavy "No" vote against the convention in the same election. This would have been the result even without the slight lead which the Democratic candidates had over the "Yes" vote.

With very few exceptions, only two tickets were placed in the field in the cities and towns—tickets which in most cases were easily recognizable as Democratic or Republican. In a few of the smaller towns, no Democrat would run, apparently even they fearing reduction of the small-town representation in the senate. In only one town was there a three-cornered contest. In Woonsocket, Mayor Toupin headed a ticket against the regular Democratic list, despite the fact that he was the man who as lieutenant-governor led the senate filibuster in 1924.

Of particular interest to political scientists is the question of the validity of the constitutional convention. It will be recalled that in 1883 the court of that day rendered an advisory opinion that a constitutional convention was illegal in Rhode Island. This called forth a storm of both protest and support in pamphlets and on the platform.[2] During the hectic days of 1924, a group of Democratic lawyers revived the issue by a pamphlet in the form of a legal brief, although intended for popular distribution. Immediately a group of Republican lawyers replied with a similar pamphlet. With the Democrats in control of all branches of the government on January 1, 1935, the first step to a constitutional convention would be the sweeping away of the 1883 opinion.

In Rhode Island, judges are elected in joint legislative session, and

[2] The best summary, perhaps, is in Jameson, *A Treatise on Constitutional Conventions* (4th ed., 1887), pp. 604–620.

by a vote of both houses they can be dismissed with or without stated cause. Although this latter provision of the constitution had never before been utilized, Democrats took advantage of it to clear out the supreme court and hold new elections for the entire bench. Three Democrats and two Republicans were chosen, which perhaps showed some forbearance, considering that no Democrat had been elected to the bench in over half a century.

From the new bench, the governor asked an advisory opinion as to the legality of a convention. The court invited briefs from all lawyers interested as *amici curiae*, and specifically from the attorney-general. The attorney-general's brief and other briefs from Democratic lawyers were submitted upholding legality, while 33 Republican lawyers united in a brief presenting a contrary view. The court's opinion, handed down April 1, 1935, advised in favor of legality. The opinion was unanimous except upon the point as to whether the legislature could call a convention without a referendum; on this, the opinion was four to one that a referendum was not necessary. The opinions occupy 69 printed pages, and were printed by the state, together with the favoring and opposing briefs, making a book of 462 pages.

There seems to have been no particularly new contribution to the theory of constitutional conventions. Arguments were based on interpretations of the text of the Rhode Island constitution, on the history of constitution-making in the state, on judicial cases from Rhode Island and other states, on opinions expressed in constitutional conventions of other states, and on citations to authorities. Political scientists will be interested in knowing that among the last are included Cooley, Dealey, Dodd, Hoar, Holcombe, Jameson, and Kent.

There seems no reason to suppose that the issue of a constitutional convention will not be revived whenever the Democrats again come into power.

CLIFFORD C. HUBBARD.

Wheaton College, Norton, Mass.

Judicial Abrogation of County Home Rule in Ohio. On February 6, the Ohio supreme court handed down a decision invalidating the Cuyahoga county charter. While this was a severe blow to those who had worked for years for the modernization of the sadly disorganized polity of this metropolitan region, by far its most serious aspect was the court's adoption of an interpretation of the constitution which in effect abrogated the procedure for the adoption of a county charter by a simple majority of those voting in the county. This decision has doubtless set back the reform of county government a minimum of five to ten years.

The county home rule amendment to the Ohio constitution provides for

two kinds of charters as to scope: (1) a charter which shall include only the existing county powers, and such as might be conferred on counties by general legislation; and (2) a charter which includes not only county powers but powers of the constituent municipalities, in whole or in part. The object of this second type, of course, was to offer opportunity for the setting up of a metropolitan or regional government of such scope as might seem desirable. To become effective, the first kind requires only a majority of those voting in the county. The second requires, in addition, three special majorities: (1) a majority in the largest city, (2) a majority in the county area outside of the largest city, and (3) a majority in a majority of the cities, villages, and townships in the county.

The Cuyahoga County Charter Commission, after long deliberation, drew up a charter which was intended to include only county powers. This was submitted at the general election of last November 5. It received the requisite majority of 18,529 in the county and a majority in the city of Cleveland, but fell a few hundred votes short of a majority in the territory outside of Cleveland and gained a majority in only 12 of the 60 subdivisions. No one was surprised at the result in the subdivisions, where the fear of annexation to the city of Cleveland is strong; and no attempt was made to win majorities there. Other than the vigorous support of all of the local newspapers, no campaign worth mentioning had been attempted anywhere in the county.

Upon advice of the county prosecutor, the board of elections refused to certify that the charter had received the votes requisite to becoming effective. The friends of the charter thereupon brought an original action in mandamus in the supreme court to force the certification. The sole question before the court was: Does the charter include municipal powers? (State *ex rel.* Howland, Relator v. Krause, 130 Ohio St., 455.)

The controlling parts of the Ohio constitution in relation to this question are brief. If the charter vests "any municipal powers" in the county for either their "concurrent or exclusive exercise by the county," then the three special majorities are required for the charter to become effective. But the constitution sets up a minimum of powers which any charter must take care of. It must "provide for the exercise of all powers vested in, and the performance of all duties imposed upon, counties and county officers by law." Such a charter becomes effective upon receiving a majority of those voting on the question of adoption in the county. The intent of the constitution is clear. The former type of charter requires the four majorities; the second type, only the one; and the simple judicial duty is to give effect to this plain intent. Unless it were found that the charter conferred upon the county one or more municipal powers to be exercised by it either exclusively or concurrently with the municipalities, the simple county majority was sufficient.

Some difference of opinion might have arisen over the meaning of the term "concurrent powers," although the wording of the constitution is sufficiently clear. Perhaps three-fourths of the powers of Ohio counties are duplicated in the municipalities. Both may tax, care for the poor, build streets, hold property, and so on. If it were argued that these are "concurrent" powers, within the meaning of the constitution, then of course no charter could be written which would not require the four majorities. But this would be an interpretation so patently at variance with the intent and wording of the constitution that no one could reasonably argue for it. After all, the charter is required to take care of all powers "vested in, and the performance of all duties imposed upon, counties and county officers by law." The county prosecutor's brief correctly took the position that such are not "municipal" powers. Which position the court took on this matter is not clear—the opinion was brief and incoherent—but its statement that "in numerous instances the charter seeks to vest in Cuyahoga county powers which are vested in municipalities by the constitution or laws of the state" can hardly be founded on any other assumption than that all of the numerous kinds of powers, common to counties and municipalities, are "concurrent." Such a holding is a straight and unqualified abrogation of that part of the constitution which authorizes counties to adopt charters reforming their governments by simple majority vote.

The court's refusal to order the certification of the Cuyahoga charter was based on four alleged municipal powers conferred on the county. Before examining these, it is well to remember that the charter was required to "provide the form of government of the county." This is the entire extent of county home rule under the Ohio constitution unless an attempt is made to annex municipal powers. What is included in the "form of government"? Obviously, it includes the power to abolish any or all code offices, substituting new ones for the old; a partial or complete re-allocation of duties among county offices; the substitution of a new nomenclature for old offices; designating which offices shall be elective and which appointive; and setting up new administrative procedures in place of those provided in the general code.

The first municipal power discovered by the court was the power given to the county council to enact ordinances. "Clearly," the court says, "the authority to enact ordinances sought to be conferred upon the county is a municipal power." This, of course, could not have been clear to the court unless it found a charter provision authorizing the county council to enact ordinances with respect to a municipal power or powers. The Cuyahoga County Charter Commission chose to name the act of its governing body an ordinance. Article IV of the charter contains a list of 24 powers with respect to which the county council might act by ordi-

nance, all of them covering the powers of existing county officers. The court did not point to any one of these as being a municipal power. The whole offense seemed to lie in the use of the word "ordinance," which happens to be the term usually employed for designating acts of a city council. Obviously, the court, in saying "no such power [to enact ordinances] has been vested in counties or in county commissioners," failed to distinguish between a substantive power and a procedure or name.

The court next cited as an example of a municipal power the provision of the charter for a director of public safety, who was to succeed to the powers of the sheriff, including that of enforcing "the ordinances of cities and villages within the county;" and then it states that "nowhere has the legislature conferred power upon a sheriff to enforce ordinances of either a city or of a county council." The court's statement is strange in view of an Ohio statute which provides: "A sheriff, deputy sheriff . . . shall arrest and detain a person found violating a law of the state or an ordinance of a city or village until a warrant can be obtained." The charter provision goes no further than to provide that the "director of public safety shall have and exercise all of the powers by general law now or hereafter vested in, and perform all of the duties now or hereafter imposed upon, the sheriff, in the enforcement of the criminal laws of the state and of the ordinances of cities, and villages within the county. . . ." Since this is a power "imposed upon a county officer by law," the charter commission was under duty to make provision for it. The court went on to say: "Under this charter, a county-wide police force is provided for and the safety director is authorized to send police officers into every municipality." The charter did authorize the county council "to establish, maintain, and regulate a police force for the purpose of preserving the public peace and enforcing the laws of the state and ordinances of the county council." The scope of action of this police force is within that of the sheriff and his deputies as defined by existing statutes. Whether the court meant to question the county-wide peace powers of the sheriff is uncertain, but such is certainly the intimation. If so, it is a unique stand in Ohio polity and reverses the court's own position of a few years ago in the case of *In re* Sulzman, Sheriff (125 Ohio St., 594), where it held that the Ohio statutes made the sheriff "the chief law enforcement officer in the county, with jurisdiction co-extensive with the county, including all municipalities and townships." The court cited no instance of where the powers of the county police were to go beyond those of the sheriff. Evidently, the municipal character of this feature of the county government rests upon the substitution of the word "police" for "sheriff" and "deputy sheriff." Again, the court had confused a name with a substantive power.

As its third example of the investiture of the county with a municipal power, the court states: "The initiative and referendum are powers con-

ferred by the constitution upon municipalities, and such powers have not been vested by law in counties." The court here again fell into the error of confusing the term for a legislative *procedure* through which power may be exercised with a *substantive* power. The initiative and the referendum are mechanisms of legislation and entirely procedural in nature. Their addition to the charter in no way affects the constituent municipalities and neither adds to nor detracts from the substantive powers of the county. The court attempted to cite no instance where the charter authorized the people of the county to use the initiative and referendum to act on a municipal power. Its contention went no further than to state that the county had adopted a method of legislation used by municipalities (and incidentally by the state and the county in some respects), and pointed to no detail in which there was a vesting of municipal powers in the county.

The fourth instance of municipal powers discovered by the court was the civil service. The court said: "Furthermore, power is sought to be vested in the county council with reference to a civil service commission. That is a power conferred upon and long exercised by the cities of this state and never has been conferred upon counties." Alongside this incredible statement should be placed a statutory provision of so recent a date (1935) that it ought to be a matter of common knowledge: "The electors of any county may establish, by charter provision, a county civil service commission, personnel office, or personnel department. . . ." This is a sufficient answer, but it should be noted that the jurisdiction of this county civil service commission was confined entirely to county employees. The reasoning of the court ran thus: Municipalities are required to choose their employees on the basis of merit and fitness; therefore this is a municipal power, and any other unit of government which sets up machinery for so choosing its employees is annexing a municipal power. Like the ancient quip about the Holy Roman Empire being neither holy, Roman, nor an empire, the court's ruling is accurate in everything except that the merit system is neither municipal nor a power. All units of the Ohio government are required to have it, from the central state government down to the school districts; and it is a procedural matter instead of a substantive power.

After months of deliberation, the Cuyahoga County Charter Commission finally voted out all municipal powers and, in order to eliminate all uncertainty, inserted a separability clause and a proviso to the effect that "nothing contained in this charter shall be construed to vest in the county any municipal powers. . . ." Black, in his *Interpretation of Laws* (2nd ed., pp. 430, 431), has correctly stated the office of such a declaration of legislative intent as being "to put a limitation or restraint upon the general language employed in the statute, or to except or reserve out of

the effect of the statute something which otherwise would be within it." The court gave the proviso no such effect, but dismissed it with language little short of flippant.

Two circumstances attendant on this decision are of moment to those particularly interested in the reform of judicial administration. For almost two weeks before the decision was announced, newspapers printed rumors that the court would rule against the charter; and, according to competent reporters, this word was passed around among the office-holders at the Cuyahoga county court-house. Two days before the decision was announced, an evening paper correctly announced that the court would invalidate the charter by a unanimous vote. Public announcement was later made that the Cleveland Bar Association might request an investigation of this alleged "leak." The second circumstance is that the opinion was *per curiam*—in the layman's language, anonymous. It should be noted that all Ohio courts, from the supreme court down, are elective.

To summarize: (1) None of the instances cited by the court constituted a vesting of a substantive municipal power in the county. (2) The court evidently meant to hold (contrary to the briefs of both defendants and plaintiffs in this case) that all of those very numerous species of powers common to the county and the municipalities are "municipal" powers, within the meaning of the constitution. (3) It held that names, forms, and procedures are powers, and that should a county charter adopt any that are used by municipalities, this would constitute the vesting of a municipal power in the county. (4) It ignored or failed to cite at least two state statutes conferring powers on county officers.

The result is to make inoperative those sections of the home rule amendment to the Ohio constitution which permit a county to adopt a charter by a simple county-wide vote. This leaves operative only the method of adoption by the four majorities, and that section of the constitution which authorizes the state legislature to "provide by general law alternative forms of county government."

Action by the rural-dominated state legislature is not impossible, but unlikely. The county home rule amendment to the state constitution was adopted by the initiative and the referendum after years of effort to obtain legislative action had proved futile. Even if such an alternative form of government were adopted in Cuyahoga county, the *dicta* in this case would make its future in the courts highly perilous.

The difficulties of adopting a charter by the four majorities are too apparent to need elaboration. Cuyahoga county has 60 subdivisions: 12 cities, 42 villages, and six fragments of townships. A majority of these (31) have an aggregate population of less than 15,000; and they have cast a total of approximately 5,000 votes, an average per subdivision of less

than 170 votes, in each of the three cases in which county home rule has been before them. Nine of these subdivisions cast fewer than 100 votes. One cast only five votes. Last November, 48 of the subdivisions returned majorities against the adoption of the charter, although the county-wide majority for it was nearly 19,000.

Three courses of action are left open to those in Ohio who are interested in county and metropolitan government reform. First, in the urban counties, to draw a charter which shall include a half dozen or so municipal powers and attempt to secure the four majorities. Second, to attempt to secure legislative action setting up alternative forms of county government. Third, to start all over again with a new home rule amendment to the state constitution, which shall define in detail the terms "municipal powers" and "concurrent powers"—and this primarily in view of the late court decision rather than because of any faulty drafting of the present home rule amendment. In the writer's opinion, the third course offers the best hope of success.

EARL L. SHOUP.

Western Reserve University.

Organization of the Executive Branch of the National Government of the United States: Changes between October 15, 1935, and April 15, 1936.[1] As in previous lists, mention is here made only of units specifically authorized by law or established by the President by executive order under general authority vested in him.

Board of Survey and Maps. This board, which is composed entirely of representatives of government agencies, was originally created by Executive Order No. 3206 of December 30, 1919. Various changes in membership have been made by subsequent orders. Executive Order No. 7262 of January 4, 1936, again defines its membership, which consists of representatives of 24 agencies.

Central Statistical Board. Executive Order No. 7287 of February 10, 1936, prescribes method of selection of members other than the chairman. Six members, termed designated members, are to be named one each by the Secretaries of the Treasury, the Interior, Agriculture, Commerce, and Labor, and the Chairman of the Board of Governors of the Federal Reserve System, from the employees subject to their direction. Seven mem-

[1] In the December, 1933, issue of the REVIEW, pp. 942–955, appeared a tabular review of the changes in major units of the national government between March 4 and November 1, 1933. Supplementary lists have appeared in the following issues: April, 1934: changes between November 1, 1933, and March 15, 1934; October, 1934: changes between March 15 and June 30, 1934; February, 1935: changes between June 30 and December 15, 1934; August, 1935: changes between December 15, 1934, and July 5, 1935; October, 1935: changes between July 5 and August 12, 1935; December, 1935: changes between August 12 and October 15, 1935.

bers are to be elected by the chairman and the six designated members; not less than four of the elected members shall be persons in the service of the United States; at least one elected member shall not be a permanent paid employee of the federal government.

Committee of Industrial Analysis. Created by Executive Order No. 7323 of March 21, 1936, effective April 1, 1936, to consist of the Secretary of Commerce, chairman, the Secretaries of Labor and Agriculture, and such other persons, not now officers of the United States, as the President may specially appoint. Duties of the Committee are to assemble and study the information on the operation of codes of the National Recovery Administration, to study the effects of codes, and to make generally available information with respect to industry, particularly hours, wages, child labor, and other conditions. The members of the Committee specially appointed shall prepare for the President an adequate and final review of the effects of the administration of Title I of the National Industrial Recovery Act upon particular industries or problems or as a whole.

Division of Industrial Economics: Office of Secretary of Commerce. Created by Executive Order No. 7323 of March 26, 1936, effective April 1, 1936, to assist the Committee of Industrial Analysis, and "to furnish employment for and assistance to educational, professional, and clerical persons."

Executive Committee on Commercial Policy. This committee was established by letter of November 11, 1933, from the Secretary of State and continued by Executive Order No. 6656 of March 27, 1934. Executive Order No. 7260 of December 31, 1935, reconstitutes its membership, which is now composed of one representative from each of the following: the State, Treasury, Agriculture, and Commerce Departments, the Tariff Commission, and the Agricultural Adjustment Administration, to be designated by the head of each department or agency, the chairman to be the representative of the State Department. The committee may, with the approval of the President, add representatives of other agencies for such periods as seem desirable.

Office of Coördinator for Industrial Coöperation. Reconstituted by Executive Order No. 7324 of March 31, 1936, to arrange conferences of representatives of industry, investors, labor, and consumers for consideration of best means of providing employment and maintaining industrial, commercial, and labor standards. This office was created by Executive Order No. 7193 of September 26, 1935, as a part of the National Recovery Administration. As the National Recovery Administration ceased to exist on March 31, the reëstablishment of the office was necessary.

National Air Transport Adjustment Board. Authorized to be created by National Mediation Board by Public Act No. 487, 74th Congress, approved April 10, 1936. Two members are to be selected by air carriers

and two by organizations of employees. The duties of the Board are to adjust disputes arising between air carriers and employees regarding rates of pay, rules, or working conditions. In its field, it has the same powers as the National Railroad Adjustment Board created by the act of June 21, 1934 (48 Stat. L., 1189).

National Recovery Administration. Terminated by Executive Order No. 7252 of December 21, 1935, effective January 1, 1936. Division of Review, Division of Business Coöperation, and Advisory Council transferred to the Department of Commerce; these agencies to be terminated not later than April 1, 1936. Consumers' Division transferred to the Department of Labor.

L. F. SCHMECKEBIER.

Brookings Institution.

The French Chamber of Deputies; A Study of Party Allegiance, Attitudes, and Cohesion. While it is quite true that French political life is characterized by its individualism, a question arises as to the degree of vacillation and cohesiveness evidenced by the various political groupings. With a view to answering this query, an analysis is herein undertaken of the vote behavior in the Chamber of Deputies during the year 1930.

The story of 1930 tells of the uncertain rule and fall of Tardieu and his cabinet. The Chamber with which he dealt had been elected during the period of the Poincaré coalition cabinet, which was supported by Right-Center forces and the Radical Socialists. The Radical Socialists withdrew their support in the fall of 1928, and Poincaré had to remake his cabinet with Right-Center support. In the fall of 1929, ill health forced Poincaré to resign, and, after others failed, Tardieu formed a cabinet with a majority support. Like Poincaré's 1929 cabinet, it was maintained by Right-Center forces.

The year 1930 witnessed a continual effort by the Left to upset the domination of the Right. In the absence of a clear majority, bids were frequently made across party lines for collaboration in establishing a working majority. The first half of the year saw the Chamber's acceptance of the Hague agreements, a much disputed social insurance program, and a large budget; at the same time, the London Naval Conference was in session. The second half of the year saw a large Hitler vote at the German polls with consequent repercussions in France, and the occurrence of the Oustrick bank scandal in which several high government officials were involved. Under such circumstances, one might well expect a strenuous test of party cohesion and the development of sharp divisions of attitude.

The present study analyzes 40 selected votes[1] of the French Chamber of Deputies for the year 1930–35 during the ordinary session and five during the special session. Care has been taken to choose only those issues on which there has been a close division of opinion. On only three of the measures was there a majority of over 16 per cent, two being over 20 per cent, and none over 30; a 10 per cent or under majority occurs on 32 of the measures; and in 10 of the votes, less than three per cent of the Deputies voting supplied the majority margin.

For determining party discipline, Professor Stuart Rice's technique[2] has been adopted as most convenient and accurate in handling such a

[1] Scrutins (votes) nos. 285, 289, 290, 291, 292, 293, 298, 309, 332, 349, 382, 383, 385, 392, 443, 450, 453, 457. For others, see later footnotes.

[2] A 50 per cent split on an issue indicates an absolute lack of cohesion. If 90 per cent of a party voted alike, subtract 50 from 90 and multiply the difference by two, the result, 80, being the index of cohesion. See further S. Rice, *Quantitative Methods in Politics*.

large body. This approach has been applied throughout in examining each of the 40 measures.

The party affiliations of the Deputies are taken from the electoral lists of January 22 and June 6, 1930. Where there has been a transference of party allegiance over this period of time, the new party affiliation is used in the analysis of party voting from June 6 on. Some deputies were elected in the intervening periods between January and June or June and December; in such cases, the electoral lists for June 6, 1930, and January 17, 1931,[3] respectively, have been used to ascertain party attachments for the intervening periods. In this manner, confusion as to party affiliations has been eliminated.

Shifts in Party Allegiance. Before analyzing cohesion and attitude, we consider first the electoral lists of June 9, 1928, and June 6, 1930, to see what changes have taken place in the party allegiance of those deputies elected in 1928. Although the Independent Deputies first appear in the electoral lists in January, 1930, I do not consider the group a newly created party, because 34 of its members were recruited from the ranks of the unattached and André Siegfried recognizes them as being independent deputies immediately after the election of 1928.[4] Acknowledging this

TABLE I

PARTIES IN THE CHAMBER OF DEPUTIES

Party	*No. of Members*[a]	*Group*[b]
Groupe d'Action Démocratique et Sociale (Dém. et Soc.)	32	Center
Groupe Communiste (Com.)	12	Left (anti-govt.)
Groupe des Démocrates Populaires (Pop. Dém.)	18	Right
Groupe de la Gauche Radical (G. Rad.)	52	Center
Groupe de la Gauche Sociale et Radicale (G. Soc. Rad.)	16	Center
Groupe des Députés Indépendants (Ind.)	39	Right
Groupe des Indépendants de Gauche (Ind. de G.)	19	Left
Groupe du Parti Socialiste (Soc.)	100	Left
Groupe du Parti Socialiste Français (Soc. Fr.)	14	Left
Groupe des Républicains de Gauche (Rép. de G.)	64	Center
Groupe Républicain Radical et Radical Socialiste (Rad. Soc.)	120	Left
Groupe Républicain Socialiste (Rép. Soc.)	21	Left
Groupe de L'Union Républicain Démocratique (Un. Rép. Dém.)	91	Right
Unattached Members (Unatt.)	11	—

[a] From the electoral lists of January 22, 1930.

[b] Based on A. Siegfried, *France; A Study in Nationality*, Appendix I.

[3] 1930 *Journal Officiel*, pp. 1040, 6964; 1931 *Journal Officiel*, p. 1084.

[4] A. Siegfried, *France; A Study in Nationality*, Appendix I.

justifiable exception, 23, or four per cent, of the 612 deputies elected in 1928 acquired new party allegiances or discarded old ones. If we deduct from the 23 those members who shifted to or from the unattached group, which is not a transfer of party allegiance, only 16 members, or 2.6 per cent, of the Chamber are to be regarded as shifting party allegiance.

Treating these movements as shifts between the Right, Left, and Center, only five members, or less than one per cent of the Chamber, have made such a change, and none of them moved from Right to Left or vice versa. Two members of the Republican Democratic Union became members of the Group of Democratic and Social Action, and one member of the Republican Democratic Union became a Left Independent, all three shifting from the Right to the Center. One Left Republican became a Left Independent, and one of the Left Social and Radicals became a Left Independent, both shifting from the Center to the Left. If we accept Siegfried's characterizations of the Republican Democratic Union as having Center characteristics, and of the Left Independents as representing the attitude of individual members,[5] these changes are insignificant.

If we speak comparatively of the French situation in respect to England or the United States, this Right-Center-Left treatment seems correct in view of the few parties in the English-speaking countries. The Chamber shows an almost complete absence of vacillation in party allegiance. Although the Left Union and Social became the Left Social and Radical Group and the Republican Socialist and French Socialist Group became the French Socialists, the same parties existed underneath the titles.

Party Attitudes. For purposes of analysis, the subject-matter of 22 measures can be classified under nine separate headings: (1) protection of agricultural interests,[6] (2) benefits to the bourgeois or middle-class entrepreneur,[7] (3) the Hague agreements, involving a relaxation of the World War treaty terms against Germany,[8] (4) strengthening legislative control over the administration and the judiciary,[9] (5) social insurance,[10] (6) free, secular education, involving the age-old conflict of church and state,[11] (7) proposals to pardon imprisoned Communists, involving the right to freedom of political action,[12] (8) protection of property holders,[13] (9) relaxation of military training requirements.[14] The averages of the cohesion indexes for each party under each heading are listed in the above sequence in Table II.

A limited number of laws are considered, but the high degree of cohesion, in most cases, weakens the possibility of error. Taking an index

[5] *Ibid.*, pp. 83, 89.
[6] Scrutin no. 321, 381, 433.
[7] Scrutin no. 314, 395, 405.
[8] Scrutin no. 322.
[9] Scrutin no. 327, 340.
[10] Scrutin no. 301, 368, 369, 372, 373.
[11] Scrutin no. 305, 307, 428.
[12] Scrutin no. 282, 441.
[13] Scrutin no. 402, 426.
[14] Scrutin no. 433, 445.

TABLE II

AVERAGE PARTY COHESION ON NINE CATEGORIES OF MEASURES

Party	*Category*								
	1	2	3	4	5	6	7	8	9
Dém. et Soc.	96	79	94	96.5	88	100	97	24*	100
Com.	100	100	100	100	100	100	100	100	100
Pop. Dém.	100	89	100	76.5	86	100	100	100	100
G. Rad.	66	88	73	29	22*	19	78.5	62	73
G. Soc. Rad.	50*	77	100	47	83	80	94.5	94	94.5
Ind.	87	86	94	57.5	65	75	91.5	64.5	92.5
Ind. de G.	3*	3*	26	8.5	14*	14	43.5*	72	2.5*
Soc.	99	99	100	99	100	100	100	100	100
Soc. Fr.	100	100	100	100	100	100	100	100	100
Rép. de G.	95	91	100	91.5	79	97	100	91	100
Rad. Soc.	92	41*	95	95	78	96	92	97	88.5
Rép. Soc.	17*	19*	10	14.5	32*	74	25.5	8*	11
Un. Rép. Dém.	97	94	98	88.5	86	97	100	81.5	100
Unatt.	5	39	56	4*	24*	35	42.5	30	9.5*

* Voted contradictorily on different measures in the group.

of 40 as a minimum indication of the presence of party attitude,[15] the Popular Democrats, the Independent Deputies, and the Republican Democratic Union (all three of the Right), and the Left Social and Radical Group and the Left Republicans (both of the Center), favor stringent military training requirements, and measures benefiting the bourgeois or middle-class entrepreneur and the landholder; but oppose measures beneficial to the peasant, social insurance, expansion of compulsory, free, secular education, relaxation of treaty terms in Germany's favor, a stronger legislative control over the administration and the judiciary, and broader freedom of political action. The group of Democratic and Social Action, of the Center, holds similar views except with respect to landed proprietors. The Socialists, the Communists, the French Socialists, and the Radical Socialists evidence directly antithetical views. The Left Radicals of the Center agree with the parties of the Right except on the question of social insurance and strengthening legislative control, where no well-defined party attitude is apparent. The Left Independents displayed party attitude only in opposing measures beneficial to the property-holder. The Republican Socialists supported free, secular education, but otherwise lacked a well-defined party attitude. Except in opposing the Hague agreements and the release of the Communist prisoners, no cohesion is evidenced among the 11 unattached deputies.

[15] This is a variation from the Rice technique of measuring attitude.

Excluding the last three groups mentioned, whose total voting strength was 51, the other political parties showed quite pronounced attitudes in respect to secular vs. religious education, foreign policy, social insurance, and other problems significant to French political life. Of the 22 measures analyzed, the Right gained a majority on 13. The Left gained victories on the agrarian measure to encourage wheat production, the establishment of a control commission over administrative contracts, three social insurance measures, the question of free secular education, and the measures concerning property-holder protection. The Left Independents,

TABLE III

PARTY VOTES ON THE ISSUE OF CONFIDENCE

Scrutin no.		*282*	*289*	*290*	*291*	*292*	*293*	*322*	*443*	*445*	*450*	*453*	*457*	
Party	*Vote*													*Av. Cohes.*
Dém. et Soc.	pro	1	32	29	29	0	32	1	29	30	0	0	0	99
	con	32	0	0	0	32	0	32	0	0	30	30	30	
Com.	pro	9	0	0	0	0	0	9	0	0	10	10	10	100
	con	0	10	10	10	3	10	0	10	10	0	0	0	
Pop. Dém.	pro	0	16	17	17	0	18	0	18	18	0	0	0	100
	con	16	0	0	0	18	0	18	0	0	18	18	18	
G. Rad.	pro	2	47	33	31	20	32	6	42	42	13	16	24	43
	con	35	2	13	17	23	10	39	8	5	29	31	18	
G. Soc. Rad.	pro	0	15	10	9	1	15	0	16	17	2	1	1	80.7
	con	16	0	3	7	12	0	15	2	1	14	16	15	
Ind.	pro	2	28	33	32	1	37	1	36	37	11	1	0	91.1
	con	33	3	1	4	35	1	35	2	2	36	37	37	
Ind. de G.	pro	9	11	9	5	9	11	7	13	9	11	7	13	23.1
	con	9	7	9	10	5	7	12	6	10	5	13	6	
Soc.	pro	101	0	0	0	101	0	98	0	0	105	105	106	100
	con	0	99	101	101	0	101	0	106	105	0	0	0	
Soc. Fr.	pro	14	1	0	0	14	0	14	0	0	14	13	14	97.7
	con	0	13	12	13	0	13	0	14	14	0	1	0	
Rép. de G.	pro	0	59	58	57	1	64	0	61	65	0	0	5	98.3
	con	62	0	0	0	63	0	61	0	0	57	63	53	
Rad. Soc.	pro	105	5	3	3	113	3	112	5	6	109	106	111	93.4
	con	7	108	105	105	0	110	3	109	104	3	4	3	
Rép. Soc.	pro	10	7	4	4	15	7	11	9	8	11	3	14	31.3
	con	7	9	12	13	4	9	9	11	8	8	8	3	
Un. Rép. Dém.	pro	0	89	89	90	0	90	1	86	88	0	0	0	99.7
	con	88	1	0	0	90	0	88	0	0	88	88	87	
Unatt.	pro	3	5	5	4	3	7	2	8	7	3	3	3	35
	con	4	5	4	6	6	2	7	2	1	5	8	5	

and particularly the Left Radicals, supplied the majority on most of these measures.

One perceives a very strong Left-Right division among 11 of the 13 parties—the 11 containing over 90 per cent of the Chamber membership. The Center groups, the Left Independents, and the Independent Deputies are the vacillating forces determining where a majority shall lie. These observations are based on the activities of 1930, and some changes might well arise under different social and political circumstances.

Party Cohesion. There is no better index to party cohesion than those votes upon which the government has indicated that the life of the existing cabinet is at stake. I have considered 12 such votes of confidence, and find a very strong cohesion within most of the parties.

The Left Radicals, with a membership of 52, appear to be the key party to a cabinet majority during 1930. Wherever its cohesion in support of the cabinet has fallen below 30, there has been an overthrow of the cabinet; the one exception was Scrutin no. 457, where Steeg's Left-Center cabinet survived by a mere seven votes, only to fall shortly after. Furthermore, one notes a rise and fall in the degree of cohesiveness as periods of cabinet upset recede and approach. On the first two votes of confidence considered herein, the cohesion of the Left Radicals was 91 and 92; but, on February 17, their cohesion dropped to 43, and then to 29. It was on the latter vote concerning a minor budget issue that the Tardieu cabinet was defeated by seven votes. The subsequent Chautemps Left-Center cabinet fell on the first confidence vote, the Left Radicals opposing with a cohesion of 15. From this point on, with Tardieu premier, the Left Radicals showed a high cohesion until the vote of confidence of November 28, when the government escaped with a majority of 14 and the Left Radical cohesion dropped to 38. On Scrutin no. 453, December 4, the government majority rose to 52, but the Left Radical cohesion dropped to 32. Then followed the overthrow of the cabinet by the Senate, December 8. On December 18, the newly-formed Steeg cabinet gained a 14 majority on a vote of confidence, with the Left Radicals showing a cohesion of 14. The Chamber session closed the following day, but Steeg fell when it reopened. The Left Radicals were a quite accurate barometer of the fate of cabinets throughout the year.

Tardieu seems to have fallen on Scrutin No. 322 involving the Hague agreements. These agreements embodied Left views and had been incorporated into the government policy to gain support outside of the Right ranks. The Rights were thus torn between party principle and a desire to maintain Tardieu in power. On Scrutin No. 325, the Right yielded, and the agreements were accepted, with an overwhelming majority.

The principal support for Tardieu came from the group of Democratic

and Social Action, the Popular Democrats, the Left Radicals, the Left Radical and Social Group, the Independent Deputies, the Left Republicans, and the Republican Democratic Union. A break in the support of the Left Social and Radical Group and a strong adverse vote by the Republican Socialists, together with the weakening of the support of the Left Radicals, brought the downfall of Tardieu in February.

The Chautemps and Steeg cabinets were supported by the Socialists, the French Socialists, the Radical Socialists, and the Republican Socialists. The failure of the Left to obtain the support of the Center, which the Right was able to do, was responsible for its inability to stay in power. The Communists opposed all cabinets; while the 11 unattached deputies showed a leaning toward the Right.

Averaging the 12 votes of confidence, 11 of the 13 parties rank high in cohesion. Ten of them, comprising 83 per cent of the Chamber membership, showed a cohesion of over 80 per cent. If we average the party cohesion for the 40 votes, there is a marked correspondence with the votes of confidence. Only the Republican Socialists, the Left Independents, and the unattached, with 51 members, or 8.3 per cent of the Chamber, exhibit an insignificant degree of cohesion.

TABLE IV

RANKING OF PARTIES IN COHESION

Party	*Average on 12 Confidence Votes*	*Rank*	*Average on All 40 Votes*	*Rank*
Com.	100	1	100	1
Pop. Dém.	100	1	91	7
Soc.	100	1	98	3
Un. Rép. Dém.	99.7	4	95	4
Dém. et Soc.	99	5	94	5
Rép. de G.	98.3	6	92	6
Soc. Fr.	97.7	7	99	2
Rad. Soc.	93.4	8	91	8
Ind.	91.1	9	77	9
G. Soc. Rad.	80.7	10	75	10
G. Rad.	43	11	53	11
Unatt.	35.1	12	40	12
Rép. Soc.	31.3	13	37	13
Ind. de G.	23.1	14	27	14

Conclusions. While the observations have been based on the year 1930, the conclusions should hold true with little modification for the period between the 1928 and 1932 elections, and might apply over a still longer range of time. The only factor which should materially alter the con-

clusions would be a radical change in political and social circumstances, and this might be true of any country similarly studied. The conclusions do modify any conception of the Chamber as an anarchistic confusion of shifting political groups and persons.

First, there is very little shifting of party allegiance in the Chamber of Deputies. If we consider any move to or from the unattached group as not being a shift in party allegiance, since the unattached group is not a party, and if we treat a shift in party allegiance as a movement between the Right, Center, and Left, there was a shift of less than one per cent of the members over a two-year period. Whether the same would be true over a longer range of time is an open question, but the steadfastness exhibited over a two-year period warrants the statement that the deputies in general are far from vacillating in political allegiance.

Secondly, 11 of the 13 parties, with a combined vote of over 90 per cent of the Chamber membership, show well-defined party attitudes. The Right and Left groups show distinctly opposed viewpoints which would probably have applied in any of the years of the recent depression. The Republican Socialists and the Left Independents, though classified as Left groups, appear to contain a collection of conflicting individual attitudes rather than a party attitude. The Center groups are a bit too uncertain to permit generalization.

Thirdly, the same 11 parties show an extremely high party cohesion. Because of the lack of a majority for either the Right or the Left during 1930, it required only a slight shift in the Center groups to move either wing in or out of power. This shifting support caused a conservatism of Right and Left programs of government action which made them very similar. The shifts in power between the Right and the Left do not indicate a lack of party cohesion, which, on the contrary, was very high.

No dominating political parties control the political situation as in the United States. The Socialists, Radical Socialists, and Republican Democratic Union were the only parties with at least 90 deputies. The very presence of 13 parties and one unattached group is strong evidence of the individualism of French political life. However, if we accept the 1930 Chamber of Deputies as a criterion, the parties in the national legislature of France cannot be accused of lack of party attitude and cohesion, nor the deputies of vacillating party allegiances.

RALPH BURTON.

University of Chicago.

Constitutional Changes in Estonia. The Estonian constitution of 1920, which was valid until January 24, 1934, was characterized by the lack of an independent head of the state and by the supremacy of the legislature over the other branches of government. Proving unworkable, it was

superseded by the constitution of 1933, which, backed by the Estonian Nazis, was adopted by the popular referendum of October 14–16 of that year.

The new constitution considerably augmented the power of the president and reduced the number of deputies from 100 to 50. The president, elected for five years by the people, was given the power of absolute veto, as he could refuse to proclaim the laws enacted by Parliament, with the exception of the tax laws, over which he had only a suspensive veto. His decrees were on the same level as laws, although they could be executed only "in the case of an unpostponable state necessity"—the case and its urgency being determined by the president and his government. They could not, however, change the laws concerning suffrage, popular initiative, the election of the president, and the passing of the budget; and there were provisions for the suspension and amendment of presidential decrees. The president might appoint and dismiss the government on his own initiative, or at the proposal of the prime minister, or on the basis of a parliamentary vote of lack of confidence; but he could retain the government despite the vote of Parliament, and proclaim new elections without the countersignature of the prime minister. Theoretically, it was possible for the president to rule autocratically and irresponsibly during his whole term, dissolving Parliament as often as he deemed politically expedient; although, practically, this would prove difficult by reason of Parliament's exclusive right of passing on the budget. Even with this safeguard, it seemed that, with the powers of Parliament so limited and the president obviously the main element in the governmental and political life of the nation, he could easily become its *Führer* or *Duce*.

The new document was permeated with the ideas of the authoritarian state and the totalitarian state, but certain provisions indicated that the Estonian development was not to be typically either of these. The state was to be governed "on the basis of the constitution and the laws passed on the basis of the constitution" (Art. 3). The fundamental rights of Estonian citizens (Arts. 6–24) might be limited only by law, and the courts were to have the power to pass on the constitutionality of laws (Art. 86). The new order borrowed from both the authoritarian and totalitarian theories, combining the result with a presidential régime in which the democratic and parliamentary elements of the old constitution have been retained.[1] The course of events bears out this interpretation.

With the adoption of the constitution of 1933, a presidential election was in order; and it was the intention of the Nazis to install their own man. Discovering before the election that they lacked the support to do this by ballot, they planned a *coup* to seize the government. The government had the leaders arrested on March 12, 1934, and the president,

Constantin Päts, acting under the extraordinary powers conferred on him by the new constitution, suspended the activities of all political parties. Such an event had been totally unforeseen by the Nazis, and the instrument that they had prepared was used to balk them. The only tolerated political activity was that of the Fatherland party, founded in the fall of 1934 to support the government.

Päts, however, continually urged the eventual restoration of democratic government, and in the fall of 1935 he announced another plebiscite to pass on retention or revision of the constitution. The Fatherland party was to hold its congress in Tallin on December 8. Learning of a Nazi plot to surround the meeting and murder the delegates and the president with hand grenades, the police arrested 170 Nazis, including General Andres Larka, a veteran of the war for independence. It was definitely established through letters and documents that the funds and ammunition for the plot had come from Danzig and Finland.

The incident and the revelations attending it effectively alienated the sympathy of the Estonian people from the Nazi cause. The "*Führer*-fever" thus dampened, Päts confidently arranged for a plebiscite on the question of whether the constitution of 1933 should be retained or a new constituent assembly convened. On February 25, 1936, out of an electorate of 770,000, 472,416 voted in favor of another assembly. This assembly is to be held in the fall of 1936, the present plan providing for a lower house of 90 members elected by the people and an upper house of 50, some of whom will be appointed by the president, and some by industrial, commercial, and agricultural groups.

If the trend toward the restoration of democratic government continues, the Estonian experience will have been a singular example of the preservation of democracy through undemocratic methods—and the defeat of the Nazis through the more seemly of their own devices.

JOSEPH S. ROUCEK.

New York University.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

Dr. Howard Lee McBain, Ruggles professor of constitutional law and dean of the Graduate Faculties at Columbia University, died suddenly at his home on May 7. A memoir will appear in the next issue of the REVIEW.

Dr. Leonard D. White, of the United States Civil Service Commission, has been appointed chairman of a delegation of eighteen persons which will represent the United States at the sixth International Congress of Administrative Sciences convening at Warsaw, Poland, on July 9.

Professor Charles J. Fairman, of Williams College, has been appointed to the Brandeis research fellowship in the Harvard Law School for the year 1936–37 and will carry on a study of the more important justices of the United States Supreme Court since the Civil War.

Professor Arthur W. Bromage, of the University of Michigan, has been granted leave of absence for the first semester of the next academic year and will devote the time to a study of local government in the Irish Free State. He is serving as chairman of the round-table on local government at the Virginia Institute of Public Affairs, July 6–18.

Professor Thomas S. Barclay, of Stanford University, conducted courses at the University of Minnesota during the spring quarter on American government and constitutional law. Professor Graham H. Stuart, also of Stanford, will offer courses on world politics and international organization during the first term of the summer session and will also participate in a special summer conference conducted by the University on international relations.

At Princeton University, Dr. Alpheus T. Mason has been promoted to a full professorship and Dr. Paul T. Stafford to an assistant professorship; Dr. William P. Maddox, instructor at Harvard, has been appointed assistant professor; and Mr. John McDiarmid, research assistant at Chicago, has been appointed instructor.

Professor John P. Senning, of the University of Nebraska, is directing a state-wide study of county administration.

The leave of absence of Professor Benjamin E. Lippincott, of the University of Minnesota, has been extended through the fall quarter of 1936 to permit him to prolong the studies in political theory which he has been carrying on in England.

Professor J. A. C. Grant, of the University of California at Los Angeles, gave courses during the winter and spring quarters at Stanford University, and Professor Finla G. Crawford, of Syracuse University, will teach in the same institution during the summer session.

Professor Grayson L. Kirk, of the University of Wisconsin, has been granted a Social Science Research Council fellowship and will spend the next academic year working in London and Geneva on economic aspects of international relations.

Professor Llewellyn Pfankuchen, of the University of Wisconsin, has been granted leave of absence for the next academic year in order to assume a post with the federal Resettlement Administration at Washington.

Professor Hugh McD. Clokie has returned to Stanford University after an absence of nine months. He spent this time in England making a study of the organization of English political parties.

Mr. E. S. Wengert, who during the past year has worked in Washington as a fellow of the Social Science Research Council, has been appointed to an instructorship at the University of Wisconsin.

The trustees of Hamilton College have appointed Dr. Walter H. C. Laves James S. Sherman memorial professor of political science, beginning with the academic year 1936–37. At the same time, they extended his leave of absence until September, 1937, to permit him to continue serving as director of the Mid-West office of the League of Nations Association, with headquarters in Chicago. In the meantime, Professor J. Q. Dealey, Jr., will continue to act as head of the department at Hamilton.

Dr. Roy V. Sherman, assistant professor of political science at the University of Akron, and since last year director of the course "Introduction to Social Science," has been promoted to an associate professorship.

At Harvard University, Mr. Samuel S. Jones, of Oxford University, has been appointed instructor in government, and new tutors in the division of history, government, and economics include Messrs. Abraham L. Gordon, of New York City, and John A. Schroth, of Princeton, N. J.

Speakers at an Institute of Foreign Relations held at Earlham College on May 15 included Dr. James G. McDonald, chairman of the governing board of the Foreign Policy Association, and Professor Ellery C. Stowell, of the American University.

The University of Arkansas has extended the leave of absence of Professor Kenneth O. Warner until February, 1937, in order that he may con-

tinue to serve as field consultant for the American Municipal Association in the area west of the Mississippi River. His courses are being handled by Mr. Spencer Albright, who is also acting as director of the Arkansas Municipal League.

Dr. John W. Manning, associate professor of political science and director of the Bureau of Government Research at the University of Kentucky, has been granted a leave of absence in order to accept appointment as director of the Division of Personnel Efficiency for the state of Kentucky. Dr. Manning assumed his new duties on March 12. Under the provisions of the new administrative reorganization act of Kentucky, the Division of Personnel Efficiency is set up in the Department of Finance, and is designed to perform all recruiting functions of the state, authorize and certify all state pay-rolls, develop and administer a classification plan and service rating system, develop training programs, conduct wage surveys, and make rules and regulations regarding transfers, leaves, and other personnel matters.

With the aid of grants by the Guggenheim Foundation, the Social Science Research Council, and the Rhodes Trust, Professor Lenox A. Mills, of the University of Minnesota, will devote the next academic year to a comparative study of the post-war governmental and economic situation in Hong Kong, the Straits Settlements, and the Malay States, with comparisons and contrasts drawn from the Philippines and Java. Mr. Mulford Q. Sibley has been appointed instructor in political science at Minnesota for the year 1936–37 to handle some of the work of Professor Mills during his absence.

A conference on Hispanic-American affairs, to be held during the coming summer under the auspices of the George Washington University Center of Inter-American Studies, will have for its subject "South American Dictators during the First Century of Independence."

Dr. Charles E. Hill, who was completing his twentieth year of service at the George Washington University, died on May 10, 1936, at the age of fifty-four from complications following mastoiditis. Dr. Hill was the author of *Leading American Treaties* (1922), *The Danish Sound Dues* (1926), *James Madison*, in the series on the Secretaries of State (1927), and *Le régime international des détroits maritimes* (lectures delivered at The Hague in 1933). Since 1929, he had lectured once a week at the Graduate School of the United States Naval Academy. Previous to his appointment at George Washington, he had taught at the Kansas State Normal School and had been supervising principal of the public schools of Pasadena, California. As a teacher, he seldom resorted to formal lectures, but was an adept at the Socratic method. His excellent teaching,

combined with a kindly manner, contributed to a great popularity among the student body.

Dr. Leon C. Marshall, director of the Division of Review of the National Recovery Administration, has been appointed professor of political economy at the American University and will also serve as head of a newly created department which will have to do with the interrelations of government and economics. Other recent appointments at the American University include Mr. Gordon Dean, of the U. S. Department of Justice, as lecturer on jurisprudence; Mr. Green H. Hackworth, legal adviser of the Department of State, as lecturer on international law; Mrs. Miriam E. Oatman Blachly as lecturer on political theory; and Dr. Henry Reining, educational director of the National Institute of Public Affairs, as lecturer on public administration. Mr. Frank Bane, executive director of the National Social Security Board, has accepted the chairmanship of a committee whose function it will be to guide the development of a training program in social security which will be conducted jointly by the Graduate School and the School of Public Affairs.

Pre-doctoral field fellowships for the year 1936–37 have been awarded by the Social Science Research Council for work in political science as follows: (1) Gladys L. Baker, University of Chicago, for study in the United States of the administrative and political aspects of the work of the county agricultural agent; (2) Maure L. Goldschmidt, University of Chicago, for study in the United States of public relations techniques in municipal administration; and (3) Bryce Wood, Columbia University, for study in London and Paris of the reapportionment of colonies as a means of redressing inequalities among states. Grants-in-aid have been awarded to political scientists as follows: (1) Kenneth Colegrove, Northwestern University, for the completion of a work on Japanese government; (2) Edward S. Corwin, Princeton University, for a study of the present stage of American constitutional law and theory; (3) Oliver P. Field, University of Minnesota, for a study of legal materials on national, state, and local government; (4) Louise Overacker, Wellesley College, for an analysis of the 1936 campaign funds of the national committees of the major parties.

The fourth in a series of short courses on police administration was held at Ohio State University on March 23–28. Forty-nine students were enrolled. Fifteen came from the police department of the city of Cleveland; nine represented units of the police force of the Tennessee Valley Authority; three were from Indiana, one from Illinois, and the remainder from various cities, villages, and counties in Ohio. The course included instruction in law, evidence, penology, criminology, crime prevention, police

communications, recruitment, training and morale, police equipment, military aid to civil authorities, and numerous other topics. At the invitation of the superintendent, the group visited the United States Industrial Reformatory at Chillicothe, spending a day in going over the institution and learning the methods used by the United States government in the classification and treatment of prisoners. A fifth course will be planned soon.

The recently established *Federal Register* is a United States government serial publication, edited by the Division of the Federal Register, in the National Archives, and devoted exclusively to the printing of official documents having general applicability and legal effect, for distribution Tuesday through Saturday, inclusive. The purpose of the *Register* is to make available, without comment or news items, all presidential proclamations, executive orders, rules, regulations, notices, instructions, and orders immediately upon their becoming effective. Its aim is to fill the long-felt need for an official publication to which all interested persons may refer for information concerning new documents with which they or their clients might be required to comply. The Federal Register Act provides that no document required to be published in the *Register* "shall be valid as against any person who has not had actual knowledge thereof until the duplicate originals or certified copies of the document shall have been filed with the Division and a copy made available for public inspection." The act provides also that these documents shall forthwith be printed and distributed by the Government Printing Office, thereby enabling the general public to keep itself informed concerning all new rules and regulations. The daily issue of the *Register* will be furnished to subscribers free of postage by the Superintendent of Documents, Government Printing Office, Washington, D. C., for five cents a copy, one dollar a month, or ten dollars a year.

The annual meeting of the Indiana Academy of the Social Sciences was held at DePauw University on April 24–25. Professor Frank G. Bates, president of the Academy, presided at a subscription dinner at which the principle speaker was Mr. Samuel O. Dunn, editor of *The Railway Age*. Professors R. H. Fitzgibbon, of Hanover College, and L. M. Jones, of DePauw University, presided over other sessions, and among those who contributed papers were Professors H. M. Stout, of DePauw University, Frank Cavanaugh, of Notre Dame University, C. B. Camp, of Butler University, and G. W. Starr, of Indiana University.

A national conference on planning was held at Richmond, Virginia, on May 4–6 and Williamsburg, Virginia, on May 7 under the joint auspices of the American City Planning Institute, the American Planning and

Civic Association, and the American Society of Planning Officials. The program included the following addresses: "Planning Extends Its Boundaries," Hugh Pomeroy, planning consultant, Palo Alto, California; "City Planning and the Urbanism Study," L. Segoe, planning consultant and director of the Study, Cincinnati, Ohio; "Revision of Zoning Ordinances," Arthur C. Comey, Harvard University; "The City Official Needs the Plan," Clifford W. Ham, director, American Municipal Association; "An Approach to County Planning," Philip Elwood, Ohio State Planning Board; "Inter-County Organization," H. T. McIntosh, National Resources Committee, and Estes Kefauver, Cincinnati, Ohio; and "Relationship of State Planning to State Departmental Activities in Virginia," discussed by various representatives of state departments.

The Committee on Public Administration of the Social Science Research Council, of which Mr. Louis Brownlow is chairman, recently received a grant from the Rockefeller Foundation to enable it to make a study of the administrative problems of social security legislation. The study, which is under the direction of Dr. Joseph P. Harris, of the staff of the Committee, will involve four major parts: (1) the administration of unemployment compensation and the public employment offices; (2) old-age assistance administration; (3) federal-state relations under grants-in-aid; and (4) a general study of the evolution of social security administration in this country. Dr. Raymond C. Atkinson, of the Ohio Institute, has charge of the division on unemployment compensation and public employment offices. Assisting him are Mr. Walter Matscheck, formerly executive director of the Kansas City Civic Research Institute; Miss Louise Odencrantz, of the Employment Center of New York City; Mr. Ben Deming, assistant director of the Indiana State Employment Service; and Mr. Harry Fite. The study of old-age assistance administration is headed by Mr. Robert Lansdale, formerly director of research of the Governor's Commission on Unemployment in New York State. He is being assisted by Miss Elizabeth Long, Miss Agnes Leisy, and Mr. Byron Hipple. Dr. V. O. Key, of the University of California at Los Angeles, is carrying on the study of federal-state relations under grants-in-aid, assisted by Professor William V. Holloway, of the University of Alabama, and Dr. Luella Gettys Key. Professor Charles McKinley, of Reed College, is making the study of the evolution of the administration of social security, assisted by Mr. Robert Frase and Miss Helen Hurd. It is expected that the several studies will be completed early in 1937 and the results published. They are designed to assist in the development of sound administrative methods in this new field of government activity. Other research projects at present being carried on by the Committee on Public Administration include a study of the administration of the work relief activities of the federal government. Professor Arthur W. Macmahon, of Columbia University, assisted by Miss Gladys Ogden, is in charge.

A Constitutional History of the United States. By Andrew Cunningham McLaughlin (New York: D. Appleton-Century Company. 1935. Pp. 833.)

When, more than a dozen years ago, it was announced that Professor McLaughlin had undertaken to write a constitutional history of the United States, the news was received with universal satisfaction, and the present volume, comprising the completed task, has been awaited with pleasurable impatience. The result has been well worth waiting for. There is probably no scholar and teacher in the country who would not be proud to bring to a climax a life-time of work with a contribution so genuinely significant and so broadly useful.

No small part of the value of this volume is due to the wisdom with which the author has defined his terms and marked out his field. What is constitutional history, and what ought to go into a volume so labelled? Many books bearing the title have been little more than recitals of the major events of the successive presidential administrations, with some allusion to constitutional controversies or a few outstanding cases. There has been no serious attempt at a coherent portrayal of constitutional development as such. At the same time, it is clear that a constitutional history must be much more than an historical study of the Constitution itself with its twenty-one amendments; much more than a chronological catalogue of Supreme Court decisions interpreting the Constitution; much more, even, than the admirable history of the Supreme Court and its work by Charles Warren. It must be a history of the Constitution very broadly conceived. In Professor McLaughlin's words (p. 402), we must "look at the Constitution not as a formal document but as the combination of institutional forms, practices, and principles which constitute the structure and the actual political activities of the state." He has accordingly traced the growth of the document itself. He has presented with shrewdness and accuracy the major lines of judicial interpretation by which the Supreme Court has controlled constitutional development. He has shown the impact upon our constitutional system of the growth of political custom and practice. And, apparently convinced that the Constitution for any generation in our national history is what that generation conceives it to be, as disclosed by what it says and does about it, he has not ignored the changing theories about the Constitution, the controversies which were never litigated, and the constitutional doctrines, long since modified or discredited, of statesmen or politicians. But all these varied materials have been woven into a coherent elaboration of the central theme of constitutional development to which they are rele-

vant with a resulting clarification of the reader's mind as to what the Constitution has been and now is.

No brief review can indicate adequately the scope and content of this volume. Some idea may be presented, however, of the relative detail with which periods and problems are handled. The book contains fifty-one chapters. Forty-three of these cover the period down to the outbreak of the Civil War. The first thirteen give an admirable survey of the British and colonial foundations, the Revolution with its background and aftermath, the movement for union, and the Confederation. There is a notable survey (fifty pages) of the work of the Federal Convention. Three chapters are devoted to the establishment of the new national government. There is an excellent survey, in two chapters, of the development of constitutional law under Marshall; while the Court's work under Taney is similarly treated, with a separate chapter on the Dred Scott case. Eight chapters deal with the slavery controversy; two cover the Civil War; and three the problems of Reconstruction. The detailed treatment does not extend beyond 1880, although subsequent constitutional development is roughly sketched and there is an excellent chapter on the Fourteenth Amendment. But even though recent happenings have not been handled with systematic thoroughness, the reader is kept somewhat abreast of the times by constant references to the ways in which earlier constitutional doctrines or practices have been modified in the more recent cases or statutes.

It may be appropriate to make a very brief catalogue of a few of the notable interpretations and judgments which Professor McLaughlin has offered. First, there is a careful presentation of the author's well known thesis that American federalism depends in precedent and principle upon the British Empire of the eighteenth century. Second, Professor McLaughlin places himself in the group of those who believe that the "founding fathers" contemplated and assumed, if they did not openly advocate, the establishment of the practice of judicial review of legislation. Referring to this assumption on the part of the members of the Federal Convention, he says (p. 314): "A careful examination of the debates will, however, probably convince the skeptic that the men of the Convention made that assumption. Some delegates, at one stage of the Convention's work, disapproved of the exercise of such power; but the general trend of the discussion appears to indicate the general assumption that the power would be exercised in cases over which the courts had jurisdiction." And he observes further (p. 318) that "there never had existed in America a legislature free from external restraint." Third, he makes the interesting point, both in discussing the Convention and in dealing with the Missouri Compromise Act, that the framers probably intended that Congress should have power to admit new states on a basis

of inferiority. Fourth, he reiterates his position, elsewhere developed, that the Convention of 1787 and the ratifying conventions as well were conscious of the fact that they were setting up "a national government in the full sense of the word," and that their silence as to any right of secession creates a very strong presumption that they did not recognize such a right. Fifth, apropos of recent Supreme Court decisions, the author comments with apparent approval upon the theory of "dual federalism," i.e., that federal delegated powers may not be used for purposes falling within the range of the reserved powers of the states; and in his discussion of the two federal child labor cases he throws his weight with the Court on the ground of the "political and constitutional immorality" of using the commerce and taxing powers for purposes beyond the legitimate scope of federal authority. Sixth, in referring to the accusation that Grant "packed" the Supreme Court in order to secure a reversal of the Legal Tender case, he states that "there appears to be no substantial ground for this charge," and adds that "the present writer is not prepared to deny that circumstances may arise when the composition of the Court and the effect of a particular appointment to its membership may properly be taken into consideration."

The reviewer sees no reason for concealing or qualifying his deep admiration for the soundness of the scholarship which has produced this book, for the shrewdness with which the author has conceived his problem, for the wisdom of his interpretations, for the extraordinary accuracy with which he has dealt with the masses of factual material involved, and for the vigorous and graceful style in which the book is written.

ROBERT E. CUSHMAN.

Cornell University.

Public Administration and the Public Interest. By E. PENDLETON HERRING. (New York. McGraw-Hill Book Company. 1936. Pp. xii, 416.)

This volume emphasizes a new phase of the study of public administration, which has passed through an interesting series of changing emphases. Early writing, associated with the honored name of Dr. Frank J. Goodnow, was influenced by European antecedents and emphasized the law of administration rather than its operating problems. The era of city and state reorganization gave rise to many descriptive studies of administrative organization, with proposals for a sounder structure. The research bureau movement developed technical studies in budget procedure, purchasing, personnel, and operating techniques. Eventually, more broadly generalized and systematic studies of the field took their place.

Professor Herring's exceptionally valuable contribution, on the borderline between the disciplines of public administration and pressure groups,

breaks new ground. For the first time, in any systematic way, we observe the national administration in operation in the midst of its complex and urgent environment. This is a study of "the tug and pull of economic and social forces upon our federal bureaucracy," which recognizes that "administration as well as legislation involves a conflict of forces," and that, "in a larger sense, officials must always act within a context that is determined by prevailing political conditions."

In this stimulating framework, the author has given us a series of well chosen and significant case studies. Many of them are drawn from such regulatory agencies as the Federal Trade Commission, the Federal Power Commission, the former Federal Radio Commission, and the Interstate Commerce Commission; others are taken from older agencies such as the State Department, the Departments of Agriculture, Commerce, and Labor, the Bureau of Internal Revenue, and the Bureau of Standards.

In each instance, the impact of special interests on an administrative program is the point of focus. It is not surprising to learn that the lot of members of a regulatory agency seeking to enforce a vague or ambiguous legislative policy on powerful special interests, nationally organized and at times resistant, is not a happy one. The details are deftly handled without obscuring the main outlines of the picture, and so far as the present reviewer is able to judge, a sound balance and a discriminating judgment are maintained throughout.

In addition to opening up this important new ground, Dr. Herring proposes a guide for the harassed official which has general theoretical interest. He asks with respect to the bureaucrat: "What criteria are to guide him?" When Congress looks two ways at once, or in all directions or none, what considerations shall govern an official who has to act? Dr. Herring's answer is that action must be taken "in the public interest." "The public interest is the standard that guides the administrators in executing the law. This is the verbal symbol designed to introduce unity, order, and objectivity into administration. This concept is to the bureaucracy what the due process clause is to the judiciary."

One might suggest that if it is not more than this, then it is not much. In fact, although Dr. Herring pursues the meaning of the public interest with unremitting diligence throughout the volume, the quarry finally eludes the chase. Nevertheless, we catch intriguing glimpses as we pass. For the most part, the process of defining the public interest is accepted as the discovery of a private or special interest to which the weight of official power is accorded. For instance, "the bureaucrat selects from the special interests before him a combination to which he gives official sanction. Thus, inescapably in practice, the concept of public interest is given substance by its identification with the interests of certain groups" (p. 23; see also pp. 134, 259, and elsewhere for the same view).

We must still inquire how the selected special interest is recognized to be identical with or related to the public interest. Here we are left to the subjective judgment of the official. "The public interest . . . is psychological and does not extend beyond the significance that each responsible civil servant must find in the phrase himself" (p. 23). "The fact remains that representing the public interest is a matter of individual judgment. No objective standard is possible" (p. 152). In some paragraphs (pp. 75, 166, 349 for example), the implication seems to be that the "integrity" of commissioners will lead to specific recognition of the public interest. But later this view is discarded. " 'Good men'," writes the author, "however able or well intentioned, cannot successfully cope with questions that involve unsettled national policies" (p. 214).

Dr. Herring concludes his book with a discussion of the need for administrative reorganization and overhead management—a need the urgency for which those close to the front line fully recognize. The recent appointment by President Roosevelt of Louis Brownlow, Charles E. Merriam, and Luther Gulick to study and report on this problem is a hopeful sign. But reorganization and better management alone will not suffice to make clear the public interest or the methods of ascertaining its metes and bounds. Dr. Herring has raised an important issue, and in his further consideration of the problem we may expect not only its systematic statement but large strides toward its solution.

LEONARD D. WHITE.

U. S. Civil Service Commission.

Administrative Labor Legislation; A Study of American Experience in the Delegation of Legislative Power. BY JOHN B. ANDREWS. (New York: Harper and Brothers. 1936. Pp. 231.)

The first broad delegation of rule-making power was authorized in the Wisconsin Industrial Commission Act of 1911. Fortunately, this pioneer legislation was drafted after close study of administrative procedure by experts in this and other countries. The advantages of such legislation was recognized immediately, and by 1913 five important industrial states —California, Massachusetts, New York, Ohio, and Pennsylvania—had enacted similar legislation. By 1935, twenty states had delegated broad administrative rule-making power in industrial safety legislation; while other states delegated this power in legislation regulating mines, boiler and building construction, fire prevention, etc. In 1935, sixteen states with minimum wage laws and seven with hours-of-labor laws for women and children delegated rule-making powers. Long before the ill-fated N.R.A., rule-making authority was vested in the Interstate Commerce

Commission, in the Steamboat Inspection Service, and in other federal administrative bodies.

It is evident (in spite of certain adverse court decisions) that delegated legislation is established as a permanent and essential aspect of labor-law administration. More than that, delegated legislation has already been extended to other fields to such a point as to suggest the conclusion that its successful application will determine in large measure the feasibility of the democratic process in modern industrial society.

Though administrative legislation is the most significant recent development in American labor law, only a few articles and monographs have appeared in the field. Dr. Andrews' volume covers the subject broadly and critically. He "endeavors to present the theoretical basis of delegated labor legislation, the present stage of its progress, and the practical results that have been achieved" (p. 33). The difficulties encountered and the methods employed for overcoming them are also considered. Chapter titles indicate scope and content. I, Introduction; II, Authorization, including a detailed summary of labor laws, state and federal, authorizing legally binding administrative regulation; III, Organization; IV, Procedure; V, Records; VI, Accomplishment, including a list of administrative codes and standards affecting conditions of employment; VII, Lessons from N.R.A. experience; and VIII, Constitutionality. Appendix A embodies a suggestive draft of a state bill to authorize the promulgation of administrative rules on safety, health, and welfare. Appendix B provides a sample administrative regulation.

Despite the care with which the first experience in administrative labor legislation was undertaken, certain defects crept into the system. Legislatures have not always been discriminating with respect to the administrative agencies entrusted with rule-making power. What type of agency should be established? Twenty years of experience affords "ample support for the conclusion that rule-making power is most properly and effectively used when vested in boards or commissions rather than in individual officials" (p. 26). Furthermore, most legislatures have failed to prescribe correct administrative procedure in rule-making, which leads Dr. Andrews to believe that the time has probably arrived when certain tested methods "should be written into the enabling acts wherever rule-making power is authorized in labor legislation" (pp. 27–28).

To meet the traditional sensitiveness to delegated legislation felt by legislatures in both England and the United States, good draftmanship is a first essential; but administrative regulations are so much superior to statute law in this respect that the author appears to share the fear that "submission to an outside authority might result in some unfortunate legalism and in needless delay" (pp. 30–31). The problem might be met more successfully by publicity, by giving those interested in a prospective regulation ample notice of what is contemplated; by making

administrative officials responsible for keeping complete records showing how the administrative rule was prepared; and, finally, by adopting a recognized system in every state and at Washington for the regular publication of all administrative regulations in order that responsible citizens may know what laws they are expected to obey. No such system has been established either in the states or at Washington. The laxity with which executive and administrative orders having the force of law are recorded and published was painfully demonstrated in the course of argument in the "Hot Oil" cases. Oil producers were actually found to have been indicted and placed on trial for violation of a code provision which did not exist. When this fact was disclosed, the critical interest of the Court became considerably aroused: "If these are executive orders having the effect of laws," said the Chief Justice, "why aren't they included in the laws of Congress? I don't see any reason for exclusion." (*New York Times*, December 17, 1934. See, in this connection, E. N. Griswold, "Government in Ignorance of the Law—A Plea for Better Publication of Executive Legislation," 48 *Harvard Law Review*, 198, Dec. 1934).

Unfortunately, those responsible for N.R.A. failed to profit from our experience in administrative labor legislation. Congress entrusted the President with final administrative authority, whereas experience shows that "rule-making power has been exercised most successfully by state labor departments" (p. 166). This emergency legislation also failed to include "the tested safeguards with respect to authorization, procedure, records, and publication." Such failure, Dr. Andrews argues, "needlessly jeopardizes constitutional validity, lays the rule-making process open to abuse, and thus endangers the necessary and beneficial development of administrative legislation" (p. 166).

It is good to have this critical analysis of administrative labor legislation by a recognized authority. The creation of new labor boards and the enactment of social security and similar legislation not only demands complete and accurate knowledge of our experience, but also requires that such experience shall be competently and effectively interpreted as a guide to future development. The volume under review adequately performs both these services.

ALPHEUS THOMAS MASON.

Princeton University.

The Hoover Administration; A Documented Narrative. BY WILLIAM STARR MYERS AND WALTER H. NEWTON. (New York: Charles Scribner's Sons. 1936. Pp. viii, 553.)

This book is divided into two parts. The first, comprising three hundred and seventy pages, carries the sub-title, "The Battle on a Hundred

Fronts." In it the authors set up and develop the thesis that the depression was a world-wide one; that through his policies and actions Mr. Hoover maintained the United States as "a Gibraltar of financial strength in a crumbling world;" that the forces of depression were definitely checked and the country was on the road to recovery when the uncertainty as to the policies of the incoming Roosevelt Administration caused the banking crisis of 1933. The second part of the book, called "The Normal Tasks of Administration," deals with events which were less related to the immediate thesis of the first part; but here, too, the authors emphasize the point that much of Mr. Hoover's constructive program of legislation was blocked by a politically hostile Congress.

It would seem unnecessary to state that the subject-matter of the book as presented in this form is highly controversial. Dr. Raymond Moley, who participated in the conversations between President Hoover and President-elect Roosevelt prior to March 4, 1933, flatly contradicts some of the assertions made by Professor Myers and Mr. Newton regarding responsibility for the bank crisis (*Today*, Feb. 8, 1936, pp. 12–13). We are so near the event and personal impressions are so strong that it is as yet impossible to form an unprejudiced judgment in the matter.

The division of the book into two parts and the undue emphasis on the first part is unfortunate. The result is the slighting of the constructive achievements of the Hoover Administration. As an illustration one might cite the reference to the report of the Wickersham Law Enforcement Commission, where the brief statement is made that "it is to be regretted that much of its work and some of its recommendations were lost sight of because of the impression by the public that it was to deal entirely with the 'wet and dry' question and the Eighteenth Amendment" (p. 390). The statistics published and the recommendations made by the Commission were indeed of very great significance in the fight against organized crime. Professor Myers and Mr. Newton would have done greater justice to President Hoover and set the work of the Commission in better historical perspective if they had elaborated somewhat the recommendations which they properly state "were lost sight of." Fortunately, more attention has been paid to the report of the President's Research Committee on Social Trends and to the Children's Charter, both of which had powerful effects in awakening the American people to social and child problems.

A large part of the volume is devoted to extracts from President Hoover's speeches and other papers. Citations throughout are made to *The State Papers and Other Public Writings of Herbert Hoover* (1934), collected and edited in two volumes by Professor Myers. In addition, the authors were privileged to use Mr. Hoover's files and diaries, as well as Mr. Newton's records and information obtained while he was serving as Mr. Hoover's secretary. The story of the events between the November

election and the inauguration of President Roosevelt, covered by Chapters XV–XIX inclusive, has already been published in substantially the same form in the *Saturday Evening Post* (June 8, 15, 22, 29, 1935). The use of materials on foreign affairs was limited by Mr. Hoover to those which touched upon purely economic relations—a limitation which implies the publication at some future date of the story of Mr. Hoover's participation in world affairs.

The book is written in the form of a day-by-day diary. Since many of the items are very brief, there is no steady flow of the narrative, and the style will not appeal to the general reader. Aside from its use as a thesis in support of the Hoover Administration, the book will be of most value for the documents here made available, some of them for the first time. The full and definitive account of the Hoover administration is yet to be written.

EVERETT S. BROWN.

University of Michigan.

The Coming of American Fascism. By LAWRENCE DENNIS. (New York and London: Harper and Brothers. 1936. Pp. vi, 320.)

Fascism is often described as a movement of defense, more or less disguised, for the vested interests of wealthy capitalists. This description hardly fits Mr. Dennis' fascism. He is as extreme and detailed as any communist in attacking our existing capitalism. He considers this system irrational, unjust, and no longer workable, and he regards our typical big-business leaders generally as socially irresponsible or as short-sighted in their selfishness. Like the editors of the *American Review*, he wants a social system that will guarantee private ownership for small enterprisers. He calls his doctrine fascism because it stands for the supremacy of common national interests over any conflicting individual or group interest and explicitly endorses a government resting on force, directed by a single disciplined party of the élite.

The author is somewhat vague and vacillating in identifying the American élite. In general, they are the "influential and powerful" men who exercise actual social control, whatever the formal social structure. Under our liberal democratic system, many of the élite find public office closed to them; and outside of office many of them exercise their power selfishly. Mr. Dennis' fascism is intended to evoke responsible action by this élite, bringing them into direct participation in political life and making them friends rather than enemies of social order and the common interest. He does not make clear how he expects this group to get into control of government. Apparently he hopes that intelligent propaganda will sell the idea to leaders, who will then find the way to "seize" power. Perhaps

the key to his belief on this point may be found in his contention that violence played an insignificant part in the fascist triumphs in Italy and Germany: the governing authorities in those countries gave over their offices to the fascists, not out of fear of violent action by the latter, but only because of confidence in the superior social competence of the fascists.

Mr. Dennis advocates a comprehensive "planned economy," devised and executed under the vigorous direction of a centralized government. He would "rationalize" our political organization by substituting representation of group interests for territorial representation, abolishing our separation of powers and our federal system, and dividing the country into regions created solely in reference to the requirements of efficient administration. He would have frankly a government of might. Every government—liberal, communist, or fascist—claims, he says, a monopoly of organized force and exercises it to whatever extent necessary for the realization of the scheme of social values cherished by the ruling group. His government would control all forms of education and indoctrination, in order to keep intellectual and moral training in harmony with the national plan. Here again he considers fascism not essentially different, in its governing methods, from other systems, since under no system are private minority groups allowed to inculcate doctrines radically inconsistent with the social order which the governors seek to maintain.

Mr. Dennis argues further that there is little liberty under our "liberal capitalism," where freedom for most men is destroyed by the force of economic necessity or by the "vast economic and legal resources" of a few "rich and powerful" individuals and corporations. His fascist government would nationalize monopolies, the larger financial institutions, and other corporations whose management has become divorced from ownership; and in curing the present economic disorders it would restore security by stabilizing the price structure and regulating the movement of goods and capital in national and international trade, aid the little man by measures drastically reducing the burden of private debts, and restore employment by financing gigantic work-producing enterprises. Mr. Dennis would change our conventional attitude toward taxation by "exalting the idea of nationalism," showing that taxes are only payments for services rendered, and popularizing the idea that "some arbitrary equalizing of fortunes and incomes by taxation is desirable."

Thus although Mr. Dennis glorifies nationalism, condemns class war, and at the same time holds that classes are ineradicable, his analysis of the operation of our large-scale capitalism should afford pleasant and helpful reading for communists. His book also contains some useful materials for old-fashioned liberals who may share his concern over the dis-

tribution of freedom, security, and prosperity under existing social arrangements.

FRANCIS W. COKER.

Yale University.

Liberalism Fights On. BY OGDEN L. MILLS. (New York: The Macmillan Company. 1936. Pp. 160.)

The Rainbow. BY DONALD R. RICHBERG. (Garden City: Doubleday, Doran and Company. 1936. Pp. viii, 319.)

Both of these timely books deserve a wide reading. The authors have handled their subjects with deepest earnestness and broad tolerance. In consequence, their efforts carry added persuasive force. Both men, too, give clear evidence of transparent sincerity and a deep desire to discuss their respective problems with complete frankness. Not the writing of a brief, but the quest for a solution, engages their attention.

Mr. Mills, whose book covers a broader field, lays down his *credo* in simple, forceful language. He believes in liberal representative government, the utmost possible sphere of personal liberty, freedom of enterprise, and especially a wide distribution of property. In order to realize these aims, he wants a clearer definition of the field within which the government and the individual respectively are to operate, and a more definite general policy of encouraging initiative. He particularly attacks government efforts to restrict production, to freeze prices and wages.

With equal force, he disapproves the private creation of monopolies and the safeguarding of invested capital from competition. He favors the anti-trust laws to forbid combinations in price-fixing and other restraints, believing as he does that our productive processes should constantly scrap old methods and machinery and should place a premium upon new improvements. Mr. Mills wants the small business safeguarded; where large aggregations of capital are necessary, he would also encourage the widest possible distribution of this large capital among small shareholders. Unemployment and old age reserves should be created, home and farm ownership encouraged, and savings protected both from the private exploiter and the government waster. A stable and sound currency is a fundamental essential; and "we must not rest satisfied until we enjoy what we never have had, a sound banking structure." As basic points in such a structure, Mr. Mills favors a credit mechanism which will not be diverted to speculative uses on a huge scale, a system of adequate safeguards against unhealthy credit inflation, and a central banking authority which will be free from both private business influence and political pressure.

Mr. Mills would not favor a government stripped of all power or will-

ingness to promote and protect the losers in the struggle of life. His liberalism recognizes the need for government regulation and extended government activity. But he strongly urges that our new government policies, following the unsuccessful emergency program, shall provide for a more substantial degree of private initiative, and that we should do our utmost to escape from those methods which are based on government omniscience and omnipotence.

In *The Rainbow*, Mr. Richberg covers more intensively a single problem in our government policy, i.e., the N.R.A. Approximately two-thirds of the book are given to an historical background of the Recovery Act. The author harbors no illusions as to the difficulties facing this legislation. Least of all does he offer encouragement for grandiose schemes of economic planning. "But no human wisdom could have kept the economic mechanism operating at maximum capacity while readjusting the speed of its various parts and repairing and strengthening damaged and weakened sections of the machineries of production and exchange." And again: "Even if an actual and supremely gifted 'brain trust' could have devised a wholly consistent recovery program, it could not have been made effective without the iron rule of centralized authority unrestrained by constitutional limitations of political power and safeguards of individual right."

Mr. Richberg sees clearly the need for laying broader foundations on which to build an improved economic system. He deserves to be classed as an idealistic realist. So, although he was the author of the much misunderstood Section 7(a), he would not legislate on every detail of employment relations by national law. There must first come some fundamental development of sound basic principles which will appeal to large numbers on both sides. Meanwhile, however, the lawmaker can insist that the parties to disputes shall at least respect the public interest. "The time is not ripe for labor courts, for legislative rules and administrative enforcement, to settle labor disputes until a ground work has been laid in established labor relations."

Mr. Richberg's sincere desire for real substantial economic and social progress along feasible lines stands out strikingly in his reflections on the work of the N.R.A. The choice between liberty and security recurs here with added force. To maintain liberty, says the author, we must tolerate some insecurity. To obtain greater individual security, we must pay the price of restraints upon individual liberty. We should not allow this issue to go to a decision by force; rather should we "unite in a center advance that will prevent the right and the left wings from involving us all in a pitched battle for class control." Here we reach the kernel of Mr. Richberg's philosophy. Laying aside the many non-essential frills of N.R.A., he sees in its fundamental policy that "advance of the center"

which, as so many hope, may assure us the maximum of security with the least sacrifice of liberty.

JAMES T. YOUNG.

University of Pennsylvania.

Social Security in the United States. By PAUL H. DOUGLAS. (New York: Whittlesey House. 1936. Pp. 327.)

Toward Social Security. By EVELINE BURNS. (New York: Whittlesey House. 1936. Pp. 242.)

The enactment of the federal Social Security Act marks the beginning of a new era in American history. Following belatedly in the footsteps of other countries, we are endeavoring to overcome the social lag that has characterized our rather Topsy-like industrial growth. Whether it marks America's coming of age, the Götterdammerung of the gods of greed, and the emergence of a collectivist society, remains to be seen. To the followers of Oswald Spengler, it is merely evidence of decline. "The craving to insure oneself," he says, "against old age, accident, sickness, unemployment—in short, against fate in every conceivable form—which is a sign of sinking vitality, beginning from Germany has now embedded itself in one way and another in the mentality of all white nations. . . . The degenerating effect of this freedom from all responsibility . . . has overtaken the whole working-class." Rome C. Stephenson, of the American Bankers Association, sees in such legislation the end of self-reliance. "Can it be," he asks, "that Americanism is dying?" Thus we hear the echo of *Man vs. the State. The Coming Slavery* is upon us in a new and formidable *Challenge to Liberty.*

Economic and social insecurity has been, as Miss Burns points out, the mainspring of our system. The pressure of poverty, the haunting fear of sickness, unemployment, and old age has furnished the dynamism of an individually-owned, private-profit economy. Can we now mitigate this fear without extinguishing the fire of individual incentive and responsibility? Can we allow the collectivist camel to get its head into the capitalist tent without ultimately surrendering entirely to it? Miss Burns suggests that "a minimum of security may be the price that our capitalist society has to pay to insure its own survival. [For] the destitute and hopeless may prefer death at the barricades to death in the gutter." But is even this minimum security possible? "Behind all these attempts to attain security within our present system," says Professor Douglas, "lies the question as to whether our social and political structure will itself prove secure. It is menaced today by business depressions and by war. . . . The real struggle for security may therefore be carried through upon a larger

stage than that which has been sketched in this book. But in that larger struggle of mankind this smaller one will have its part."

In the face of such imponderables, analysis of the details of the present legislation seems somehow unimportant. Nevertheless, the value of these volumes is vastly increased because both Professors Douglas and Burns, while presenting with unusual clarity the economic and administrative problems involved, are not indifferent to the broader social implications of the legislation. As a text-book for legislators faced with the necessity of framing state security laws, Professor Douglas's volume is especially valuable. Both authors are in substantial agreement concerning the defects of the present set-up. Both reject the Wisconsin plan of separate industrial unemployment reserves in favor of the Ohio plan for statewide pooled funds. Professor Douglas's analysis of the Clark amendment for the exemption of private pension plans provides a crushing argument against its adoption. Both authors recognize the essential injustice and economic unsoundness of placing the entire burden of unemployment and old age security upon the workers and their employers. To extract billions of dollars from current purchasing power, even for the highly laudable purpose of making provision for the inevitable "rainy day," is not likely to improve an economic system already sick unto death for lack of effective markets. As Professor Douglas says: "The accumulation of these reserves will . . . greatly decrease the amount of purchasing power which otherwise would be spent upon consumers goods . . . the withdrawal of such large amounts for current consumption may well help to create a further state of unbalance in the future." To counteract this, it is suggested that a substantial portion of the burden be assumed by the Treasury and financed out of taxes on swollen incomes.

By 1950, it is estimated, the old age pension fund will have a reserve of over fourteen billion dollars, and by 1980 this will reach a maximum of forty-seven billions. These reserves may be invested only in government bonds or obligations upon which interest of not less than three per cent is to be paid. "In this way," says Douglas, "it is hoped ultimately to buy up virtually the entire national debt and thus deprive individuals of the opportunity of owning tax-exempt bonds." Since in the long run these funds will come directly or indirectly from wage-earners, the result will be to transfer the national debt to the already overburdened backs of the workers. Moreover, the release of vast sums to the private investment market through the purchase of government bonds, together with the reduction of purchasing power through annuity payments and pay-roll taxes, may serve to make the economic system even more insecure than it is at present.

The tax-offset plan embodied in the present law is not only economically but constitutionally inferior to the plan of direct grants-in-aid.

Both authors recognize the pitiful inadequacy of the grants to be made for old age pensions, child welfare, and public health. They deplore the absence of satisfactory minimum standards to be required of the states. Not the least serious defect is the almost complete lack of any standards relating to state administrative personnel. There is no guarantee that state boards will not be dominated by spoils politicians. The present law could be immensely improved by the adoption of some of the major recommendations made in these volumes. "The Social Security Board should be given the power to see that adequate old age pensions are paid by the states. . . . The amount of the federal subventions for old age pensions should be raised from $15.00 to at least $20.00 a month. . . . The Security Board should be given a considerable sum of money to grant as outright aid for pensions to states which are particularly poor. . . . The requirement that an aged person must withdraw from a gainful occupation in order to secure an annuity should ultimately be withdrawn. . . . If the constitutionality of the national system of old age insurance is upheld, then the tax-offset system of providing for unemployment insurance should be transformed into a national system." Many of the employment categories now excluded should be brought within the system. The federal grants for mothers' pensions should be increased to meet half the costs instead of one-third as at present. Minimum standards for the selection and tenure of administrative personnel should be established. As soon as possible, a national system of health insurance should be instituted.

"The Social Security Act," says Professor Douglas, "should not be viewed as the triumphant and perfect conclusion to the struggle to obtain greater security. It is . . . full of weaknesses and is strikingly incomplete. If we are to progress, the act should instead be regarded as merely a first step which must soon be followed by others."

No citizen alive to the world in which he moves can afford to neglect these volumes. They are not the final word, but are without doubt the best word thus far on the problem of social security.

PETER H. ODEGARD.

Ohio State University.

Henry Ford vs. Truman H. Newberry. By SPENCER ERVIN (New York: Richard R. Smith. 1935. Pp. xvii, 616.)

This exhaustive, painstaking book presents the whole story of the famous Newberry case from the inception of Mr. Newberry's candidacy to his resignation from the Senate. But it is much more than a narrative—it is, as the author puts it in a sub-title, "a study in American politics, legislation, and justice." Indeed, the major portion of the book is devoted

to an analysis of the evidence as it bears on the campaign, the contest in the Senate, the Department of Justice, and the district and supreme courts.

I do not know of a better treatment of an election contest than I find in this book. Rarely does one find such a thorough treatment of any subject. By those not interested in this well-known case, this thoroughness might be considered a fault. But to the student of politics, the book gives not only a complete picture of all phases of the subject, but also a splendid example of a scientific treatment of a highly controversial subject. After dissecting this sizable book, one feels that political scientists can arrive at political truths after weighing masses of conflicting data.

The various phases of the case are rather evenly presented. The chapters dealing with the trial in the Senate and the Senate as an election court are particularly good. "The proceedings," writes the author, "against Mr. Newberry are a sermon on ill-considered legislation, defective justice, and bad politics." And most of the lessons which are drawn from the contest by the author are, in the opinion of the reviewer, sound and based on the evidence: (1) the two houses of Congress are incompetent as election courts; (2) a careful study of the regulation of money in elections is needed; (3) the Department of Justice used "shocking" methods in conducting the case. In urging Congress to abstain from regulating primaries, the author would make it quite impossible to reach many of the serious election abuses. And he would have a hard time convincing Congress that it should limit or restrict its powers in rejecting candidates who carry the certificate of election. But regardless of incidental disagreements in matters of opinion, this book is a most creditable performance and is of great value to political scientists, not to mention its interest for the many other persons who have followed this famous case.

JAMES K. POLLOCK.

University of Michigan.

Guide to the Diplomatic History of the United States, 1775–1921. BY SAMUEL FLAGG BEMIS AND GRACE GARDNER GRIFFIN. (Washington: United States Government Printing Office. 1935. Pp. xvii, 979.)

There is a story told that in the card catalogue of an American university library, a book upon Irish Bulls was arranged under the subject-head of Animal Husbandry. There is nothing of that sort in Bemis and Griffin, *Guide to the Diplomatic History of the United States*, and that for a very good reason. It has had in the authors, in addition to expert bibliographical technique, scholarly knowledge of the substance of the subject. To Miss Griffin, there was already a debt of gratitude for her bibliographies of American history. Her collaboration with Professor Bemis is fortunate,

for he knows the field as only a productive scholar can know it, and he has brought to his prolonged task the discriminating critical insight which could be acquired only by having himself handled a large part of the materials referred to. In using the *Guide*, it must be borne in mind that it is a guide to diplomatic *history*, and that, therefore, the arrangement is primarily chronological and not generally topical, for the topics selected are necessarily in chronological order. If, therefore, one is seeking materials upon, say, the recognition policy of the United States, he must have an historical background if he is to use the *Guide* properly; and after all, how could one understand the recognition policy of the United States without such an historical background? Possibly by an elaborate system of cross references, a topical collection might have been provided, but it would not only have delayed the work, but undoubtedly expanded it. One should be grateful for what has been provided.

About three-fourths of the work is bibliographical. In the remaining fourth is a body of information entitled "Remarks on the Sources," which it is believed has never before been brought together. Here is a description of the various printed sources and a fairly detailed account of the manuscript sources, both in this country and abroad.

The *Guide* lists nearly 6,000 works of various kinds, and as many of these are cited more than once, to each is given a key number when it is referred to for the first time. This number is then repeated at each succeeding citation. A short evaluation of the work usually follows its first citation. These two features abundantly justify the authors' claim: "This book is what the title states. It is not a bibliography in the strict sense of the term. It is a guide." Errors of commission, the reviewer is unable to detect; those of omission, it would be invidious and certainly difficult successfully to point out. Possibly they would lie in the field of biography. Thus, H. B. Adams' *Life of Jared Sparks* does not seem to have been included, although it contains materials on the Webster-Ashburton negotiations. The difficulty of discovering omissions is a test of the *Guide's* inclusiveness. The work is an invaluable adjunct to the field, a marvel of conciseness and arrangement; and finally, an expression of obligation should be made to the Library of Congress for having published the work and made it possible for it to be sold at so low a price as $2.50.

JESSE S. REEVES.

University of Michigan.

The Symbols of Government. By THURMAN W. ARNOLD. (New Haven: Yale University Press. 1935. Pp. 278.)

This witty and generally wise volume stimulates thought in a variety of ways, but its main argument—or what I take to be such—can be stated

fairly briefly. A peculiarity of the human species is that it must always act *on principle*, or persuade itself that it is doing so—otherwise the risk of action would be quite too terrible. It results that the human mind proliferates "principles" with about the same facility as a hen lays eggs, and with about the same ultimate profit to itself. The principles so numerously proliferated, in response to the daily hazards of life, afford little or no guidance to efficient and successful action, and no sound basis for prediction of future action. Frequently, indeed, they appear in pairs of mutually cancelling contradictories (see p. 35), while at other times—and especially is this so in the field of government—they set up taboos that paralyze action altogether.

On the other hand, just because of the tendency of mind above noted, principles are of the "utmost utility in moving groups of people," and so as tools in the hands of those who wish "to exercise social control" (p. 10). In short, it is the demagogue—whether radical or conservative, whether Communist or Liberty Leaguer—who robs the roost. What is the answer?

Because of the tone of ironic disdain which pervades much of the volume, one is hardly prepared for Professor Arnold's reply to this question in his closing chapter, the surprising quality of which rather reminds one of the famous twenty-sixth chapter of *The Prince*. Before entering upon these last pages, one assumes that Professor Arnold is about to record his agreement with those who assert that the mass of mankind are foredoomed to booberie, and that the mass mind is, and must remain, so much putty to be moulded by the enterprising few. Thus the best that could be hoped for—indeed, the ideal to be sought—would be a government, not precisely of philosopher kings, but of technician-propagandists: men who knew how to convert the absurd propensity of their fellows for high-fallutin' and senseless slogans into rulership; but men also of the technical skill and required good-will to convert their rulership, in turn, into social benefit.

The fact is that Professor Arnold utterly repudiates this ideal, which, he asserts, reduces the mass of mankind to a level with inmates of an asylum, presided over by trained and kindly attendants. His own belief is that the American public is as capable of "orienting itself toward governmental theories as toward medical theories" (p. 268), and hence of evaluating political programs for the concrete results they promise rather than in terms of devotion to so-called "principles"—in short, of developing a comprehension of "tolerant adult personality" and a scientific attitude toward government. As he puts it in his closing words: "The writer has faith that a new public attitude toward the ideals of law and economics is slowly appearing to create an atmosphere where the fanatical alignments between opposing political principles may disappear and a competent, practical opportunistic governing class may appear. Whether such

hope is well founded or not it is impossible to say, but to that hope this book is dedicated" (pp. 270–271).

This is a book from which political scientists can obtain much profit, as well as entertainment.

EDWARD S. CORWIN.

Princeton University.

The Diplomacy of Imperialism, 1890–1902. By WILLIAM L. LANGER. (New York: Alfred A. Knopf. 1935. Two volumes. Pp. xviii, 797, xxii.)

Professor Langer's most recent ambitious attempt to tell the story of the complex diplomacy of the period since the unification of Germany and Italy, near the end of the third quarter of the nineteenth century, adds lustre to his already great reputation as an historian and creative writer. In the two volumes under review he details the diplomacy of the European Great Powers and Japan in the period from 1890 to 1902. He calls his volumes *The Diplomacy of Imperialism*, since he believes that imperialism is the dominating characteristic of the period. He points out repeatedly that the rival alliances worked very imperfectly after the disastrous dismissal of Bismarck, and that the only guiding principle is to be found in the efforts of the various Powers to challenge England's supremacy in the colonial field. Attention to the colonial field means that Professor Langer has had to devote most of his space to the Near East, Africa, and the Far East.

Two introductory chapters cover the development of the Franco-Russian Entente and the Franco-Russian Alliance, topics dealt with more fully in the author's previous book entitled *The Franco-Russian Alliance, 1890-1894*. The forty pages of Chapter 3 constitute a splendid essay on the psychology of imperialism, particularly as applicable to Great Britain. Chapters 4, 9, and 16 give a splendid discussion of the struggle for the Nile. Chapters 5 and 7 supply the best discussion which the reviewer has yet seen on the Armenian question. Considerable light is thrown on the relation of the Armenian revolutionary activities to imperial diplomacy. Chapters 6, 12, 14, 21, and 23 are devoted to the Far East. Professor Langer covers with adequacy and in detail the period from the Sino-Japanese War to the Anglo-Japanese Alliance. Considerable use is made of the Russian documents, particularly the Lamsdorff diaries. Chapters 8, 18, and 20 are devoted to the South African problem, and particularly to the Boer War. The Boer and British causes are carefully evaluated, as are the motives of the Great Powers, as revealed by this internal struggle within the British Empire. The challenge which Germany issued to British supremacy of the sea is amply dealt with in Chapter 13, and the whole problem of an Anglo-German understanding is treated incisively in Chapters 15, 17, and 22.

Professor Langer's two volumes are remarkable in the grasp of detail and the penetrating understanding which they reveal. The manner in which the author has examined and thoroughly mastered the documentary materials, the memoirs, the monographs, the magazine articles, and other evidences of official and public opinion is truly admirable. Language has seemed to interpose no barrier. The vastness and complexity of the subject, the mountainous character of the materials available on numerous topics, have likewise been hurdles which the author has taken in his stride. The arrangement of the material is almost above criticism. The author has designed twenty-three maps to illustrate most of the subjects covered by his book. He has given an extensive bibliographical apparatus in footnotes and at the end of each chapter. Where there are competing and conflicting accounts by participants in diplomatic events, he is judicious in giving both sides of the story. He never fails, however, to make his own position perfectly clear, and he undoubtedly has a right to an opinion of his own.

The first reaction of a political scientist to Professor Langer's two volumes is likely to be that they are lacking in conclusions concerning general principles of international politics. Being close to his subject, Professor Langer naturally gives considerable attention to individual motives and records in detail the whims and fancies of particular persons in seats of authority. One does not always receive the impression that he fully appreciates the impact of economic and social forces upon statesmen. Nor does one find general principles concerning the relation of public opinion to the activities of governments in the field of international politics. Again, Professor Langer gives little attention to international law and international organization as factors in determining the policies of diplomats.

Second thought suggests, however, that anyone who ventures to describe the operation of general principles in this field is on hazardous terrain. Perhaps we have not yet accumulated sufficient facts about international politics to discover any precise general principles at work. Certain it is that Professor Langer has frequently paused to comment upon the forces operating in given situations, and has frequently called attention to the resources at the command of individual statesmen which were improperly used or not used at all. For this he will, no doubt, be criticized by certain types of historians who take a less ambitious view of the function of their profession.

Until some historian proves his ability to write better diplomatic history than Professor Langer has written in these two volumes, it is beside the point for historians to criticize his somewhat unorthodox historical method. Similarly, it is presumptuous on the part of political scientists to emphasize Professor Langer's failure to give us a neat hand-book of

the principles of international politics, in view of their failure even to do as good a job as he has done.

The reviewer has not noted a single typographical error in the more than eight hundred pages, although a German word is incorrectly divided. He has noted, however, that the text and the maps do not agree in their spelling of certain proper names. The book has a very good table of contents and a splendid index.

LUTHER H. EVANS.

Washington, D. C.

Fascism and National Socialism; A Study of the Economic and Social Policies of the Totalitarian State. BY MICHAEL T. FLORINSKY. (New York: The Macmillan Company. 1936. Pp. x, 292.)

Dr. Florinsky is one of that company of scholars who, having devoted their attention to Bolshevism and made their appraisal of its workings, feel irresistibly drawn to an analysis of its competitors in the field of totalitarian states. It requires a high order of ability, which he evidences, to sense the similarities and parallelisms of mechanism and procedure, when the divergence of ideologies is sometimes chasmic. The work endeavors to bring into relief the points of agreement and difference between Nordic Racism and Roman Authoritarianism, with an occasional cross-reference to the practices of the Kremlin. Florinsky seeks first the common denominators in each movement which led to the overthrow of the democratic-parliamentary system, finding them in (1) the psychological incapacity of both Germany and Italy to descend suddenly from megalomania to drab and bitter reality, and (2) the wholesale revulsion of nationalist elements against the *vague* of extreme radicalism gripping both countries at the end of the World War. Out of this situation came two dramatic movements, synchronous in origin, coëval in failure, simultaneously developing the militant truculence which commanded attention, and finally riding to power on a series of cumulative national frustrations.

But the parallel does not end with induction into office; it continues with the temporary acceptance of existing constitutional norms, initial coalition with nationalists, the elimination of rival parties and dangerous allies, and the purging of the party after a relatively short lease of power. In this, Potsdam and Rome ape Moscow by periodic *tchiskas*. There follows in each country a rapid exfoliation of intricate new governmental apparatus, accompanied by the piecemeal renovation of the older skeletal structure of government—witness the comparable findings of executive authority in the Capo di Governo and the Reichsführer respectively.

But enough of parallelisms. The differences are also made clear. Flor-

insky's principal contributions at this point arise from his detailed depiction of how party control works, how business is manipulated, how labor is regimented, how national self-sufficiency is being sought, at the expense of foreign trade. This is pointed, incisive, clear. But always the Fascist lily is gilded while the Swastika comes out somewhat stained. Granting that the excessive anti-Semitism of the Third Reich has no Roman counterpart, it would still seem that Florinsky's penchant is distinctly toward Rome—certainly not toward the "New Deal," which is judged unfavorably by corporative state standards. No pious acclamation of the democratic process can quite overcome this apparent bias.

The final chapter, dealing with War and Peace, having been written at the end of 1935, likewise reveals an apologia for Mussolinist foreign policy. Coming to the reviewer at a time when renewed and intensified sanctions are under consideration, this plea in extenuation of imperialism as an historic necessity falls on rather deaf ears.

MALBONE W. GRAHAM.

University of California at Los Angeles.

Revolution—Whither Bound? BY HUGO FERDINAND SIMON. (New York: Farrar and Rinehart. 1935. Pp. xii, 380.)

Dr. Hugo Simon, professorial lecturer at Northwestern University and American correspondent of the *Berliner Tageblatt*, enumerates "twenty-four great fundamental revolutions in the last eighteen years," among them the two in Russia and one "completely peaceful and legal, but not less fundamental, in the United States." It is obvious that the phrase "great, fundamental revolution," as used by the author, including as it does both the Bolshevik upheaval in Russia and the New Deal in the United States, is extremely broad and elastic. These twenty-four revolutions, with the exception of the one in Spain, "have one trait in common: namely, the movement from greater to less freedom and from less to more organization." In general, this, the basic conclusion of the book, is acceptable; to sustain it, however, one need not strain too severely the term "revolution." Also it leaves open various questions, e.g., how much less freedom; how much more organization; with what ultimate results, good and bad?

Since, according to Dr. Simon, "it has happened here," readers will be interested in his account of the process. "The situation in the United States had been very tense for several years previous to November, 1932. . . . In the moment of greatest danger an election occurred . . . the American nation elected a great, experienced, and popular leader with such an overwhelming majority that he was able to go ahead with admirable courage, unhampered by over-scrupulous hesitation. . . . Just

what happened in Germany. The end was a complete change in the constitution, done with legal forms, but revolutionary in its tendencies."

Heil Roosevelt! Unfortunately for this view of the case, the Supreme Court of the United States has since thrown out two of Simon's best exhibits, the N. R. A. and the A. A. A. Perhaps, therefore, we have gone through two great fundamental revolutions, one achieved by the executive, the other in the nature of a counter-revolution accomplished by the judiciary. It is also worth noting that the Franklin D. Roosevelt *putsch* does not have to its credit anything in the nature of the German "free election" of March 5, 1933, nor the subsequent non-free elections and plebiscites of Hitlerite Germany, nor the Reichstag fire, nor the mass use of violence and terror, nor unlimited one-way propaganda, nor anti-Semitic persecutions, nor concentration camps, nor the blood-purge of June 30, 1934. A really competent theory of Nazi dictatorship could, no doubt, easily explain away such small odds and ends of fact.

By a rather facile but wholly unconvincing manipulation of concepts, Dr. Simon arrives at the conclusion that dictatorship is a form of democracy. Indeed, he considers it far superior to the ordinary type of representative democracy; it is direct democracy carried on "through referenda and by a special confidant of the nation, a leader in whom it has full confidence." "A unity free from class hatred, party contrasts, and social snobbism is one of the most outstanding goals of fascism." "The impression has arisen that such high ideals as justice to the individual, freedom, equality, and fraternity alone do not suffice to govern a great nation." "There is a *common* trend in the political developments of the world, *a trend from liberty to organization in order to increase national efficiency.*"

Doch ein Begriff muss bei dem Worte sein: efficiency also is a term which demands definition. Assuming that we could agree upon its meaning, there would still be much room for doubt as to whether the organization of Nazi Germany, freed as it is from considerations of justice, freedom, equality, and fraternity, is achieving, or can achieve, Dr. Simon's supreme *desideratum.*

ROBERT C. BROOKS.

Swarthmore College.

The Causes of War and the Conditions of Peace. BY QUINCY WRIGHT. (New York: Longmans, Green and Company. 1935. Pp. xi, 148).

These lectures by one of our foremost students of international relations represent a summary of thirty research studies on the causes of war undertaken at the University of Chicago. Professor Wright finds that the important conditions of peace include (a) a desire for peace in the

human population superior to all hatreds; (b) an organization of the world community adequate to restrain conflicts; (c) a system of law intolerant of violence except as a legally controlled instrument of execution; (d) the "continuous application of peaceful techniques for preventing extreme departures from equilibrium among the material forces in the state system." The author insists that the problem of peace and war "is the problem of maintaining dynamic equilibrium in the world community," and he avoids the illusion that peace and the absence of struggle are synonymous, for he states that "conflict is not less important than unity in social organization. . . . A dynamic society is always on the verge of internal war, which it can avoid only if its organization is precisely adapted to restrain wars without destroying conflicts as they arise under the conditions of that particular society." The problem is to find a substitute for war; and apparently this can be done only by building up an international organization. But the author points out that this task is extremely difficult, because hitherto "an external personalized enemy or devil has always been a necessary symbol for effective human organization" and the "larger the society the weaker it has become because of the inability of its members to identify the same devil."

Perhaps the most interesting and most valuable chapter deals with the fluctuations of war and peace. According to the Chicago project, there have been about 2,300 battles among European states since the seventeenth century. These battles have tended to be concentrated in three highway areas: Flanders, the Po Valley, and Egypt. Warfare at night has not been common, and belligerents prefer to fight in the spring or summer. The normal duration of a war has been four or five years, and wars have been concentrated in fifty-year periods—after the manner of business cycles. During the history of warfare, the size of armies has tended to increase. France, having less than half the population of the Roman Empire, today maintains relatively twice as big an army. On the other hand, there has been a decline in the length of wars and in the proportion of war years to peace years. The cost of war has risen and the proportion of the population killed in war has tended to increase. Nevertheless, the proportion of persons killed in battle to those engaged has declined from about fifty per cent in the Middle Ages to six per cent in the twentieth century. Even more interesting is it that "in only three out of the fourteen war periods of the last three centuries which involved one or more great powers on each side and lasted more than two years, did a single great power avoid being drawn into war." From this historical fact, Professor Wright concludes that all the great powers may be expected to join the next great-power war unless the war promptly comes to an end. But he concludes that the tendency is for war to decline as an instrument in world policy.

Valuable as is this summary, it suffers from the lack of attention, com-

mon to most American students of international relations, to the details of military organization, which are the very materials from which wars are made. The writer points out that the general development of armaments has been to increase the power of the defensive—but this statement certainly is not true in so far as the growth of air-power is concerned. While it may be correct to state that war as such is declining, the war system in power politics is still predominant. This system may remain an all-powerful instrument of policy even though wars as such are not fought. Professor Wright dismisses the question of peaceful change, which he admits is all-important, with a single sentence. Certainly no discussion of this character should devote so little attention to what is the most fundamental condition of peace.

The book contains a number of bromidic or otherwise curious statements such as, "civilization was invented something over five thousand years ago"; the "great problem of the League of Nations, it seems to me, is the augmentation of its own prestige and influence"; "there has been a tendency for the members of a community of nations to increase in population." The book contains many erudite references to the animal and planetary kingdoms, but pays little attention to the more fruitful observations in regard to human conduct by some of our modern philosophers, such as Bergson, Stratton, Dewey, Pareto, Whitehead, and Berdyaev. The author of the article cited on page 16 is Kingsley Martin—not Martin Kingsley.

Anything from Professor Wright's pen is well worth reading. But the present volume, although it contains valuable material, suffers from the inhibitions of "coöperative" research. It is not as great a contribution to the subject as Sturzo's *International Community and the Right of War;* nor is it as important as the two major works which Professor Wright has previously published. The moral is that the great foundations are likely to achieve more productive results if they endow men like Professor Wright for life, rather than support too elaborate and ephemeral "research" projects.

RAYMOND LESLIE BUELL.

Foreign Policy Association.

Eastern Industrialism and Its Effect on the West, with Special Reference to Great Britain and Japan. BY G. E. HUBBARD, assisted by Denzil Baring, with a conclusion by Professor T. E. Gregory. (New York: Oxford University Press. 1936. Pp. xxii, 395.)

The Problem of the Far East. BY SOBEI MOGI AND H. VERE REDMAN. (Philadelphia: J. B. Lippincott. 1935. Pp. 348.)

First published in England, in 1935, by the Oxford University Press and V. Gollancz, respectively, these books, although widely differing in

scope and method, both deal with the same basic problem: how can a modernized and industrialized East be fitted into a world scheme which has been developed and, until very recently, dominated by the industrial capitalism of the West?

Of the two works, the first listed is of outstanding value. Laboring under the auspices of the Royal Institute of International Affairs, Mr. Hubbard has produced an exhaustive and authoritative study of economic developments in the Orient and of the repercussions which these developments have had upon the West. On the Oriental side, Japan occupies the center of, but does not monopolize, the picture; China and India both receive due space, not merely as markets in which Western goods are meeting ever-increasing competition from the output of Japanese factories, but also as autonomous or semi-autonomous areas of industrialism which, with the passage of time, may be expected to supply an increasing proportion of their own domestic needs. Other regions—Egypt, Australia, the Netherlands East Indies, etc.—are introduced primarily to illustrate the tendencies of Japanese trade and its influence upon Western (particularly British) industry. Although recognizing the importance of such political factors as Japanese imperialism and the growth of nationalism in China and India, Mr. Hubbard refuses to be led aside into any lengthy discussion of these topics. He has kept within the limits set forth in his title, and within those limits has devoted himself to the collection, tabulation, and analysis of the available facts. Professor Gregory, in a brief concluding chapter, summarizes the situation from the viewpoint of the economist and argues that the spread of the Industrial Revolution in the Orient, like its original development in Europe, will add to the total of the world's wealth and will result eventually in a real increase of human well-being.

The authors of the second book, one a Japanese scholar and the other long a resident in the island empire, have also assembled an impressive amount of factual material dealing with the Far East, particularly with Japan and China. While thus limiting their field geographically, they have taken into consideration the political, cultural, and diplomatic as well as the more strictly economic aspects of the situation. Much of their collected material is interesting and important, especially where it relates to economic and political conditions in Japan; yet the value of their book is impaired, notably in its historical sections, by a number of serious inaccuracies. For their proposed solution of "the Far Eastern problem," suggested in the introduction and set forth more fully in the concluding chapter, they can at least claim originality. Believing that Japan's political aspirations can be easily satisfied if her economic needs are met, they suggest that the Powers remove all existing restrictions upon her foreign trade and recognize her hegemony in the Far East—"a status

which geography and history have already accorded her, so that diplomacy might just as well follow suit." With Japan thus deprived of all reason for pursuing an aggressive military policy on the continent, the problem of China is to be solved by encouraging the Chinese to establish "a federal republic on a socialist or communist basis." In their opinion, China would thereupon cease to be a field for exploitation by the rival capitalistic powers, yet would not at the same time become an active competitor of the already industrialized nations. The possible incongruity between the two parts of this novel plan appears not to have occurred to its authors.

G. NYE STEIGER.

Simmons College.

Foreign Policy in the Far East. BY TARAKNATH DAS. (New York: Longmans, Green and Company. 1936. Pp. xiv, 272.)

This book is made up of a number of coördinated public lectures, most of which were delivered during 1935 at the Catholic University of America. In his preface, the author states: "I have tried to give a picture of the trend of nationalist movements in the Orient, the primary motives of which are to overthrow the dominion of Western imperialism and to assert political and racial equality. At the same time, I have tried to present a popular and trustworthy interpretation of fundamentals as well as tendencies of foreign policies of the principal Western Powers and Japan in the Far East during the nineteenth century and the present era." It may be added that the last chapter, on "The Foreign Policies of Franklin D. Roosevelt," is not confined to a discussion of the Far Eastern policies of the United States, but deals with recent American policy in general. Democrats will like it, but Mr. Hoover and the Republicans will find no comfort in it.

The author has an easy style, and the reviewer has found the book especially interesting in its revelation of the outlook on world politics of a highly educated Hindu who came to the United States in his youth, received his higher education in this country, and became a naturalized American citizen. A severe, though usually urbane and temperate, critic of imperialism in general, he nevertheless shows a tendency on the one hand to look with more or less tolerant eyes on the United States' excursions in aggressiveness and on Japan's imperialistic policies; and on the other to cast Great Britain for the rôle of villain. The latter plays for the high stakes of diplomacy with constant Machiavellian cunning and unscrupulousness, always using other nations for her malign purposes. It would appear that the author thinks that the United States has been especially vulnerable to British machinations. For example, the Wash-

ington Conference for the Limitation of Armaments "did not originate with the statesmen of the United States, but with those of Britain. British statesmen felt it to be wiser to induce the American authorities to issue the necessary invitations for the conference; but the conference carried out the British program through the agency of certain American officials" (pp. 179–180). In the absence of trustworthy supporting evidence, the reviewer remains skeptical about this deep, dark plot. Again, according to the author, the astute and wily English were so clever during the London naval conversations of 1934 that not only the innocent Americans, but the Japanese as well, fell into their "traps" (p. 184). One gathers from the author's statements that Britain specializes in the technique of spreading ill-will between nations. Thus: "In Europe, under the pretence of maintaining the balance of power, she plays France and Germany alternately against each other, to serve the purpose of increasing tension in both camps . . ." (p. 183). In the Far East, she seeks to set Japan and the United States against each other (pp. 184–185, 205). No doubt the British did not build up their empire in a fit of absent-mindedness. But are they as bad as all that?

FRANK M. RUSSELL.

University of California.

The Caribbean Since 1900. By CHESTER LLOYD JONES. (New York: Prentice-Hall, Inc. 1936, Pp. xi, 511.)

Unlike the majority of those who have written on Caribbean questions in recent years, Professor Jones endeavors to give a general picture of the problems of the Caribbean countries, both economic and political, rather than to deal solely with the story of their relations with the United States. The policy of our own government is discussed in its manifestations in each of the republics of the region, but with comparatively little emphasis on the general considerations which underlay the action taken by succeeding administrations at Washington, and with less discussion than one generally finds in books on the subject of the merits and demerits of the policy itself. Many incidents which have been the subject of bitter controversy are thus either not mentioned or rapidly passed over. Those who have accepted the sensational, if not always accurate, pictures of American "imperialism" which have been common in recent literature about the region will find the book somewhat colorless in this respect; and there are places, as in the discussion of the Panama revolution, where many students will feel that the policy of the United States appears in a more favorable light than it should. It is clear, however, that the author's main purpose throughout the book is not to explain or defend the policy of the United States, but to confine his story to events which have actually

influenced the internal development of the countries concerned, without going into questions which are important chiefly to those who are interested primarily in American diplomatic history.

This method of approach emphasizes all the more strikingly the preponderant influence which the United States has exercised in the Caribbean during the period which the book covers. The reader is struck by the extent to which this influence has dominated the whole course of development, political, economic, and social, in the countries of this region. The author's views on this subject are effectively set forth in his concluding chapter on "Independence or Interdependence." He demonstrates with unanswerable arguments that decisions made at Washington, whether with respect to customs tariffs or the arms traffic or the recognition of new governments, will decisively affect the prosperity and political stability of the Caribbean countries, whatever the policy of the United States government may be, and whether or not it chooses to recognize the full extent of its responsibility for its neighbors' welfare. Professor Jones evidently doubts whether it is possible under these conditions for the United States to maintain a policy of strict non-intervention and whether such a policy "would be of unqualified benefit to the weaker American nations." He feels, on the other hand, that a better comprehension of the problems which confront the United States would decrease the suspicion and dislike which our Caribbean policy has aroused in other parts of Latin America, even though it is impractical for the present to hope for any effective or beneficial joint action by American powers in dealing with crises which may arise in Caribbean states.

The book deals not only with the small republics in which such crises commonly occur, but with the whole Caribbean region, including Colombia, Venezuela, and the European colonies. In the case of each country, there is a brief sketch of its history and its contemporary social and economic problems and a somewhat more detailed discussion of the manner in which these problems have been affected by international relations. Like other writers on the Caribbean, the author has obviously been hampered by lack of accurate and complete monographic material, and the chapters for which such material was available are naturally far more complete than some other sections of the book. Two of the best are those on foreign claims in Venezuela, in which extensive use has been made of the sources.

DANA GARDNER MUNRO.

Princeton University.

BRIEFER NOTICES

AMERICAN NATIONAL GOVERNMENT AND POLITICS

In 1931, the Brookings Institution and the Municipal Administration Service published Paul V. Betters' *Federal Services to Municipal Governments*. Now comes a companion volume, largely the work of Mr. Betters, though J. Kerwin Williams and Sherwood L. Reeder are named as co-authors. This volume—*Recent Federal-City Relations* (United States Conference of Mayors, Washington, D. C., pp. x, 145)—is not a revision of the earlier work. It does not attempt to bring the earlier material up to date. Instead, it deals with the new federal-municipal relations of the Roosevelt régime, finding them sufficiently numerous and important to merit the attention of all students of government. The first chapter is entitled "The Federal Government and Municipal Finance and Credit." It deals with such matters as the much-publicized and little-used Municipal Debt Readjustment Act, the N.I.R.A. and its effect upon municipal purchasing, and the proposed removal of federal tax exemption from municipal securities. Then appear various alphabetical agencies designed to aid cities directly or indirectly—PWA, WPA, FERA, CWA, FSRC, NYA, and a long list of others. Short chapters are devoted to federal utility legislation affecting cities and to the better known relations of city and nation in the field of crime control. In the preface, Mr. Betters states that he "does not pretend to cover all the ways in which the federal government has exercised an influence, however remote, upon the government of municipalities." This disclaimer is quite proper, but scarcely necessary, for all important relations have been considered; and, in addition, a number of federal activities have been included whose effect upon municipal affairs is somewhat tenuous, to put it mildly. Thus the Federal Deposit Insurance Corporation is considered because municipal deposits, like all deposits in member banks, are protected within the maximum fixed by law. Most readers will doubtless be grateful, however, for the policy of inclusion rather than omission whenever in doubt. The volume has been prepared carefully, and it makes interesting reading. The conclusions contained in the final chapter—that cities need the money, that they do not need or desire any substantial measure of federal control, and that such control is not likely to develop—are worthy brain-children of their procreator, the executive director of the United States Conference of Mayors.—AUSTIN F. MACDONALD.

The Legal Adviser of the Department of State (Vol. 5, No. 6, International Law and Relations, American University, Digest Press, Washington, D. C., pp. 53 mimeoprint), by Ellery C. Stowell, is a succinct and readable account of one of the most important branches of the Department of

State, though one concerning which little is heard, i.e., the Office of the Legal Adviser. The first twenty-three pages constitute the author's account of the office; twenty pages of appendices indicate expert selection of materials pertaining to it. This brochure is the second in a series of "Studies of the Department of State," No. 1 being "The Economic Adviser of the Department of State." The transcending importance of the Office of Legal Adviser (created under this title by act of February 23, 1931, as successor to the Office of Solicitor of the Department of State) is concretely and impressively portrayed. The paramount duties of this officer are presented as pertaining to the supplying of expert legal counsel to the Secretary of State (thence to the President) with respect to international claims, the International Joint Commission, extradition, nationality and immigration, regional and topical problems. The Legal Adviser is thus called upon for expert opinions on questions involving many branches of municipal and international law. To discharge these duties, the Adviser is aided by a staff of some twenty-three lawyers known as Assistants to the Legal Adviser. "The success of the Secretary [of State] in the fulfillment of his high office must in no small measure depend upon the correct interpretation of municipal and international law which it is the duty of the legal experts of the Department to supply." These ideas, and more, the author presents impressively and attractively. The brochure recommends itself particularly to students of international law and relations and of public administration.—WALDO E. WALTZ.

In *Provisions for American Public Officers and Employees Disabled in the Course of Duty and for their Dependents in Case of Death* (Burgess Publishing Co., pp. 70 mimeoprint), Professor Edwin O. Stene presents a timely study of the extent to which governmental units provide security for the breadwinner and his dependents against the hazards of public employment. Three principal methods of protection or relief and several minor ones are analyzed and evaluated; provisions for the application and administration of statutes are well covered in discussions and tables; and—a distinctive feature of the study—close attention is given to judicial interpretations of terms and phrases common to the subject. Under the common law and also employer's liability statutes, the king-can-do-no-wrong principle prevents public employees from recovering for injuries, even to the extent that industrial employees may do so. Under such statutes, governments are usually held liable in "proprietary" activities only. The national government and 46 states now have workmen's compensation laws. In four states, these apply to all state and local officers and employees, but in most states and in the national service they apply only to "employees" and "laborers," or at most, to these plus "appointed officers;" while in four states having such laws no public

servants are covered. In the federal service and in eleven states, disability or sickness benefit payments continue for the duration of the disability, but in other jurisdictions payments are made for only a limited time, or a lump sum, up to $2,000, is paid if the disability proves permanent. The pension system is in common use, particularly for firemen and policemen. Direct legislative grants, continuation of salary during disability, and leaves-with-pay are makeshift methods used. Professor Stene's survey and his suggestions should help one to understand this subject, or a legislature to draft a bill on the topic. But one is given no idea of the actual numbers affected, benefits paid, or the budgetary burden of an adequate law.—P. S. SIKES.

In *The Politics of Planning in the Oil Industry under the Code* (Harper and Brothers, pp. 90), René de Visme Williamson offers a study of systematic political science. The book is an outstanding illustration of scientific method developing the meaning of social phenomena without intending to "prove" something. It is based upon the assumption that political science includes any "exercise of social power or the presence of conflicting social forces" (p. 2). Mr. Williamson examines a society stabilized by government planning, made possible by the merger of politics and ethics. By planning, "chronic depression, instability, poverty," and even discontent, may be mitigated or abolished (p. 6). Under the Petroleum Code, a Labor Policy Board was established in 1933. Originally, the board was to have three representatives each for management and labor and a seventh member as chairman. When employers withdrew and a company union representative was denied a place, Secretary Ickes named an "impartial" board of three "to promote the labor interest" (p. 55). This board served as (1) union organizer, (2) labor conciliator, (3) representative of labor. Can public officials be trusted to plan and dominate "national security?" Would the disappearance of private corporations be a "public" loss? (p. 80). Have public officials no personal or selfish interests to serve? Notwithstanding success in scientific examination of some phases of planning in the oil industry, the author could "assume" further and bring out the meaning of such important political phenomena as (1) business and personal losses resulting from coercive control by government officials, (2) whether mistakes made by public officials in planning involve great waste of oil, (3) the growth of a bureaucratic pressure group, (4) additional positions for party patronage and political nepotism, and (5) the rich opportunities for favoritism to "friends" and business associates with "inside" connections.—EDWARD W. CARTER.

Bankruptcy in United States History (Harvard University Press, pp. 195) is the substance of three lectures delivered by Mr. Charles Warren at

Northwestern University. The first lecture covers the period of the creditor (to 1827); the second, the period of the debtor (to 1861); and the third, the period of the national interest (to date). The lectures deal primarily with the discussions that have taken place in Congress on bankruptcy laws, with particular reference to constitutional theories of bankruptcy, and emphasizing sectional differences of opinion. The author stresses the steady removal by Congress and the Supreme Court of the many constitutional obstacles that were supposed to lie in the way of constitutional bankruptcy legislation attempting to do anything more than the English creditor type of legislation. Mr. Warren seems to feel that the bankruptcy power is ample, and that the Radford case does not cut it short. The essays are written in the same fine temper and style that characterize all of Mr. Warren's writing, and they tend to leave one with a feeling that the tale has been well told and, on the whole, pleasant. The great economic, sociological, political, and legal interpretation of the place of bankruptcy in modern industrial society remains to be written.—OLIVER P. FIELD.

Students of the middle years of American history have long known that the proposal to annex all Mexico did not meet with the approval of most Southern leaders, who realized that the region was unfitted by nature and unprepared by law for slavery. Mr. J. D. P. Fuller devotes his doctoral dissertation, *The Movement for the Acquisition of All Mexico, 1846–1848* (Johns Hopkins Press, pp. 174), to demonstrating that the desire for Mexican territory was a manifestation of Western doctrines of "manifest destiny." Mr. Fuller has conscientiously compiled newspaper clippings to trace the emergence, growth, and decline of the movement during the two years of the war, but he has been content with thus exhibiting the data. The study does not attempt to analyze the economic, social, or political forces which lay behind the vague concept of manifest destiny.—W. B. HESSELTINE.

The third edition of Harold R. Bruce's *American Parties and Politics* (Henry Holt and Co., pp. viii, 616) departs in no major respect from the second edition. The nine pages dealing with the period since 1932 and added to the historical section, while obviously not very detailed, are well organized and objective. Although the chapters devoted to structure and method bear the same titles and contain to a very large extent the same materials as in the earlier edition, direct primary ballots, an appeal for party funds, and a set of instructions to voters have been added to the illustrative exhibits. These, together with a more representative set of general election and presidential preference primary ballots and the inclusion of the program for the Republican national convention of 1932 and

the Democratic and Republican platforms of 1932 as appendices, increase the usefulness of the book as a college text.—HAROLD ZINK.

Publication No. 765 of the Department of State is entitled *List of Treaties Submitted to the Senate, 1789–1934* (Government Printing Office, pp. 138). Treaties with Indian tribes are not included, but even so, the total number catalogued runs to 890, including, of course, international agreements of all forms of name, whether convention, protocol, or any other. For each is given its date, the country with which it was negotiated, its subject or title, the date of its submission to the Senate, the disposition made of it, and its treaty series number. Various other pertinent tables and notes are included, and altogether the publication is indispensable for any student of the country's international relations.

The season for ephemeral campaign biographies is here. Norman Beasley's *Frank Knox, American* (Doubleday, Doran and Co., pp. 184) is one of them; else why begin it with an account of Grover Cleveland's fight for "sound money," and why so much emphasis on balancing budgets in Knox's various newspaper enterprises? "Dynamic," "tireless," "indefatigable," "resourceful," and similar words—frequently repeated —may correctly characterize the subject, but the result of the biographer's labors seems to be a picture of a man who might be an excellent president but who would hardly prove an acceptable candidate.—HOWARD WHITE.

STATE AND LOCAL GOVERNMENT

A reader of Daniel W. Hoan's *City Government* (Harcourt, Brace, and Company, pp. xi, 365), unfamiliar with the achievements of Milwaukee in the field of municipal government and unacquainted with the authoritative character of the citations generally employed by the author, might at times well believe that he had inadvertently possessed himself of some chamber of commerce promotional literature. Even the initiated may be somewhat dazed after completing the account of the transformation of Milwaukee, during no more than twenty-five years, from a graft-ridden, haphazardly administered city to, as Mayor Hoan describes it, a city which "has made a record and established a leadership in municipal administration that can be equaled by no other city in the world." Obviously, this is not a conventional study of municipal government for textbook use in university courses, being neither particularly well organized nor inclusive. It is not entirely, as its subtitle calls it, "The Record of the Milwaukee Experiment," although this aspect is dominant. To some extent, it is the autobiography of the man who has been mayor of

Milwaukee since 1916. Again the book is a rack on which its author hangs his ideas on all sorts of human problems. Many readers will disagree with Mayor Hoan's philosophy, but his ideas are almost always interesting—even to the weaknesses of the university brand of political science as seen by one who majored in that field as a student. Political scientists will perhaps be more concerned with how Milwaukee has managed to progress so far than with what has been achieved, important as the latter undoubtedly is. The explanation given is by no means a simple one, but it would seem fair to name "education" as the outstanding factor. Mayor Hoan has rarely controlled the common council; he has usually received no support from the press or from business; he has been handicapped by an antiquated city charter. But he has vigorously sought to educate the people of Milwaukee, irrespective of age, in the objectives and possibilities of good city government, and has been highly successful. Mayor Hoan is a firm believer in the merit system, public ownership, the elimination of municipal debt, central purchasing, a superior public school system including vocational and adult divisions, prevention as the dominant policy in police, fire, and health departments, abundant city planning, and the necessity of separating special interests and graft from political parties if good government is to be attained. The book deserves a wide reading by citizens, public officials, and students of government.—HAROLD ZINK.

In *A Plan for Regional Administrative Districts in the State of Washington* (University of Washington Publications in the Social Sciences, Vol. 8, No. 2, pp. vii, 59), Selden C. Menafee argues that, because of the high per capita cost and inadequacy of services in the smaller Washington counties, the existing 39 counties should be consolidated to form 12 regional districts which would supplant the counties as self-governing areas and would also be used by the state for its field administration of such functions as relief, public works, education, and highways. Each of these new districts should be a region whose boundaries are based on the factors of population, transportation facilities, and consumer trading areas, although the selection in eastern Washington should depend to some degree on the types of agriculture. The study is open to substantial criticism for its failure to face the question of whether a region should be a large city plus its tributary rural environs or, on the contrary, an area homogeneous from the standpoint of its inhabitants' occupations and interests; for its gratuitous assumption that the best areas for local government are *ipso facto* the best areas for state administration; and for its failure to include in the bibliography the indispensable studies on local government areas by William Anderson and Charles E. Merriam.—JAMES W. FESLER.

County Library Service in the South (University of Chicago Press, pp. 259), by Louis R. Wilson and Edward A. Wright, is a study of the results of library projects of eleven counties in several Southern states. In 1929, the Julius Rosenwald Fund "decided to stimulate library service in the South on a county-wide basis to all residents, urban and rural, white and black, in school and out." The foundation extended aid over a five-year period. Political scientists will find the book interesting. The authors point out some of the serious difficulties of operating county libraries in the South. The merit system does not exist, as a rule, and consequently the task of selecting capable personnel is very great. But one of the more serious obstacles to overcome is the woeful lack of funds. There are too many counties in the Southern states. In Georgia, there are sixty which have less than 10,000 population, and 118 have fewer than 20,000. A large number have less than $4,000,000 of taxable property. The authors contend that efficient library service cannot be extended without general county consolidation or functional consolidation. Increasing state participation in library service is also urged.—CULLEN B. GOSNELL.

The common practice of governmental units using the commercial banks as public depositories gives rise to many problems, particularly in times of depression. These problems are considered and solutions suggested in Martin L. Faust's *The Security of Public Deposits* (Public Administration Service, pp. 45). Dr. Faust finds that complete protection for public deposits would involve reform of the entire banking system of the country. However, state banks, as in Delaware and North Dakota, and the federal reserve banks offer promising solutions. Federal deposit insurance may be extended to cover all public deposits. Pending these reforms, Dr. Faust suggests that cash balances be kept at a minimum, that deposits be restricted to larger and stronger banks, that territorial limitations be eliminated, that deposits be limited in relation both to the capital and surplus of the banks and to the banks' total deposits, that adequate provision be made for audits, that the practice of electing treasurers be abandoned, and that integrated financial agencies be set up in each governmental unit.—HARVEY WALKER.

In an excellent and competently edited digest, *Municipal Finance Legislation, 1935* (Public Administration Service, pp. 44), Irving Tenner has performed the difficult task of classifying and summarizing all state legislation enacted in 1935 that was concerned with local public finance. In clear and compact fashion, the digest indicates the current methods used by various legislatures in dealing with local debt, taxation, new sources of revenue, debt and tax limitation, accounting, pensions, depositories, and New Deal policies affecting local governments. In its portrayal

of patchwork laws, designed to prevent the collapse of the local property tax, to allow concessions to either hard-pressed taxpayers or to equally hard-pressed municipalities, and to make adjustment for unwieldy indebtedness, the picture shown is not an encouraging one.—GEORGE LEFFLER.

Volume 1, number 1, of *Legal Notes on Local Government* was issued in March. The periodical is sponsored by the municipal law section of the American Bar Association and is edited by the legal research bureau of the New York University School of Law. Another, but less elaborate, publication of similar nature is the *Municipal Law Journal*, first appearing in January, and issued by the Institute of Municipal Law Officers, 730 Jackson Place, Washington, D. C.

FOREIGN AND COMPARATIVE GOVERNMENTS

Whether one can rightly speak of Gladstone's foreign policy may, I think, be debated. The eminent British statesman, although he was prime minister of no less than four Liberal cabinets, never filled the position of secretary for foreign affairs. In fact, he keenly felt his lack of knowledge in this field and caused his foreign secretaries no little uneasiness by his incompetence. Yet Paul Knaplund, having already written of Gladstone's colonial policy, has attempted, in his *Gladstone's Foreign Policy* (New York, Harper and Brothers, pp. xviii, 303), to determine the basic ideas of the Grand Old Man on international relations and to sketch the main lines of Liberal foreign policy during his various ministries. He has made use for this purpose not only of the published sources, but of the unpublished Gladstone, Granville, and other papers. Though rather superficial in places, the book is important not only for the new information it adduces, but also because it is the only systematic, scholarly treatment of the subject. Gladstone undoubtedly had very pronounced views on international affairs, and, what was more, he had an almost uncanny appreciation of the ultimate consequences of both British and Continental policies. He saw, perhaps more clearly than anyone else, what the annexation of Alsace and Lorraine would lead to, what the English occupation of Egypt would involve, what the shortcomings of imperialism and militarism were. He worked honestly and strenuously for a policy based on ideas of justice, humanity, and reason. So far, so good. He was an idealist and a crusader, albeit at times a pretty uncritical one. But we are told by his apologist that he lacked control over the foreign policy of his first ministry and that he had even less hold upon the second. The third ministry was of very short duration, and Mr. Knaplund might have pointed out that during the last ministry Rosebery was the sole director of foreign policy. Both Granville and Rosebery were confronted with concrete problems, and

they had to play the game as it was played in their time. The result was that the history of the Liberal cabinets was marked throughout by acts that were in no way in keeping with Gladstonian principles: the occupation of Egypt, the annexation of Zululand, the ungenerous blocking of the Transvaal's access to the sea, the failure to evacuate Egypt, the colonial disputes with Germany, the Uganda business, etc. Mr. Knaplund explains over and over again that the just policy proved "inexpedient," that "forces beyond his [Gladstone's] control proved too strong," and that "the British Government proved incapable of framing a policy of its own." Well and good; but all this seems to me merely a new version of the story of the good man frustrated by events and by his opponents. Gladstone had high principles, but he failed not only to persuade others to act on them, but even to weld them into a working policy for his own country.—WILLIAM L. LANGER.

Like many volumes which attempt to prove a case, Ernest Hambloch's *His Majesty, the President of Brazil; A Study of Constitutional Brazil* (E. P. Dutton and Co., pp. ix, 252) represents an uncritical and incomplete use of materials, a prejudice in interpretation, and a captious tone in presentation which largely destroy any worth in what could be potentially a valuable study of the Brazilian constitutional system. The author's thesis is that a "presidentialist régime" (i.e., a presidential as contrasted with a parliamentary government) is but a thinly disguised dictatorship. To prove the point, he labors mightily; and certain quite relevant economic factors, and even some facts of history, are but minor hurdles which he takes in his stride. The "presidentialist" system everywhere is synonymous with bloodshed, unrest, and tyranny—even "the gangster phenomenon in the United States was nothing but a perverted form of revolt against a legal tyranny." Mr. Hambloch casually disregards adverse Supreme Court decisions on "New Deal" laws, repeated overriding of presidential vetoes of bonus bills, and like actions as representing any effective check on executive "tyranny" in this country. In Latin America, a better case for presidential dominance can be made out, but the author approaches it from the standpoint of an advocate rather than that of an impartial student. "Never was there any real unrest in Brazil until she was blessed with a republican constitution on the presidential model," writes the author in blithe and total disregard of the virtual anarchy during the Regency a century ago. The constitutions of 1891, 1926 (a revision), and 1934 are analyzed—but again to prove a thesis. The chapter on "The United States and Latin America" comments with uniform cynicism on our relations with the states of the south. A long chapter on "The Chaotic Results of Despotic Rule" reviews financial and economic developments, much to the discredit of the Republic as

against the Empire. The last chapter, "The Real Problem," offers an excellent opportunity to salvage something out of the mass of bias and misinterpretation which precedes, but it is merely a pointless collection of polysyllabic bits of philosophizing with little or no coherence and pertinence. Mechanically, the book leaves much to be desired. Despite its controversial tone, it is not documented. The two-page index is inadequate. It lacks a bibliography. The book adds little to the literature dealing with Brazilian political and economic development.—RUSSELL H. FITZGIBBON.

Liberals will find hope in Marquis W. Childs' *Sweden; The Middle Way* (Yale University Press, pp. xvi, 171). Social adjustments in Sweden have been gradual. For a half-century, there has been what Swedes refer to as a "leveling out" (*utjämning*), a process under which economic conflicts have been reconciled and a more widespread participation in national wealth has been realized. This process has been so sensible, so devoid of doctrine, so free from utopian aspirations, so lacking in climaxes, that it has not been news. The result is that the English-reading public has remained in ignorance of developments in Sweden. A popular work was needed, and Mr. Childs has come to the rescue. He presents an able and up-to-date discussion of coöperation, coöperative housing, the state power system, state railways, state ownership of industries, government monopolies, liquor control, the social-democratic régime, future prospects; and, for good measure, be tosses in a chapter on the Danish folk school and agricultural coöperatives. Portions of the work show evidences of haste, and if one reads with an eye for fault-finding he can uncover inaccuracies both as to fact and to conclusion. But such minor errors do not seriously mar the excellence of the work, which obviously is intended to be popular and panoramic rather than meticulously exact. The sins of omission are more serious. A more extensive treatment of the social and historical background would have shed light on the phenomenon of Swedish social control; a more detailed description of the organization of government monopolies would have been desirable; and the book on Swedish labor and trade unionism still remains to be written. The reviewer would not, however, be too critical. One cannot do everything in a single volume, and Mr. Childs in his preface suggests additional studies. As it stands, the work is the best survey in the English language.—WALTER THOMPSON.

Evidence of new emphases in Bolshevik policy can be found in *The Soviet Union; A Symposium* (International Publishers, pp. xii, 440), a collection of reports made to the Seventh Congress of Soviets of the U.S.S.R., and other speeches and reports delivered early in 1935. Sum-

maries of Soviet achievements in various fields and the usual candid and living discussions of particular failures are unified by reiteration of the theme sounded by Stalin: "While formerly the emphasis was one-sidedly laid on technique, machinery, now the emphasis must be laid on the people who have mastered technique. . . . People must be cultivated as tenderly and carefully as a gardener cultivates a favorite fruit tree" (p. 13). This consideration for the development of the individual is related primarily to the raising of the productivity of labor, which Molotov describes as "the chief aim of socialism" (p. 80). In this connection, it is clearly the governmental background of the recent Stakhanoff movement. But this new individualism may be connected also with the electoral reforms, discussed by Molotov; with Kuibyshev's insistence that the distributive system be adjusted to consumer demand (p. 196); and with Yakovlev's explanation of the new agricultural policies, based on "a combination of the private interests of the collective farmers with the collective interests of the collective farms" (p. 305). In a summary of Soviet foreign policy, the vocabulary of world revolution is at a minimum and the keynote is the willingness of the Soviet Union to collaborate with capitalist, and even with fascist, countries in the maintenance of peace. —JOHN D. LEWIS.

In his *Statut International de l'U.S.S.R., État Commercant* (Librairie Générale de Droit et de Jurisprudence, pp. 486), H. Stoupnitzky describes the business organization of the Soviet Union. The work is divided into five parts and discusses foreign trade from the standpoint of Soviet municipal law; government monopoly; international status before recognition of the government of the Union *de jure;* international status after recognition; and the financing of Soviet foreign trade. The study is an exhaustive one, tracing the history of Soviet domestic and foreign trade from the inception of the Bolshevik régime to the present time. Dr. Stoupnitzky takes note of the difficulties which the Soviet Union encountered in its foreign trade and of the extent to which the government has solved some of the problems incident to trade with other nations. In spite of some improvement of commercial intercourse between the Soviet Union and other countries, the difference in economic structures is still presenting great difficulties in the establishment of normal commercial exchange. The author presents a thorough analysis of economic differences and difficulties obstructing the attempts to establish economic relations between the Soviet Union and the capitalistic world. There is a useful bibliography; also a collection of the principal treaties signed by the U.S.S.R. and other nations.—B. W. MAXWELL.

The third edition of Ramsay Muir's well-known *How Britain is Governed* (Houghton Mifflin Co., pp. xii, 335) differs in no important respect

from its predecessors. The author has, however, rewritten a few passages in the light of development of the past few years, and in his preface he expresses strong hope that the current diminution of party spirit and realignment of political forces may afford the long-awaited opportunity for a reformation of the English political system. As he rightly says, hitherto every proposal for reform has been considered, by every political party, solely in the light of its probable effects upon the party's prospects of winning and retaining power. The underlying theme of the book continues to be the unrepresentative character of the House of Commons—in consequence of a "distorted" electoral system—and the urgent need for the adoption of a scheme of proportional representation. If any one objects that this would tend to prevent the restoration of the historic bi-party system, Mr. Muir retorts that a two-party system is "essentially unnatural in modern conditions," and can be "kept in being, or restored, [only] by the maintenance of a fundamentally vicious electoral system, and the widespread superstition that our system of government can only work well when one party has a majority."—FREDERIC A. OGG.

In Alfred G. Pundt's *Arndt and the Nationalist Awakening in Germany* (Columbia University Press, pp. 194) is appraised the political significance of an early German nationalist's literary works. Arndt lived between 1769 and 1860. In numerous romantic pamphlets, he capitalized German resentment at Napoleon's domination and thus played an important rôle in the liberation movement. In the author's opinion, he was both a cultural and a political nationalist, with an intense belief in individual liberty and constitutional rights. His militarism, however, as well as his intolerance and his advocacy of racial homogeneity for the nation (he was anti-Semitic), suggests the integral nationalism of the Hitlerian stamp. Some may disagree with the conclusion that "it was Arndt perhaps more than any other man who was responsible for its [the political pamphlet's] exploitation for patriotic or nationalistic ends." But that he awakened "in the rank and file of the citizenry a vital and lively concern for their common political destiny" is hardly open to doubt. The book is well balanced, is written in a pleasing style, and all in all is far more interesting reading than most historical monographs of its type.—DONALD C. BLAISDELL.

Some weeks before the celebration of the royal jubilee, the editors of *Fortune* sent one of their number to England "to discover if he could what sort of person the king of England really was." The result was an article in the magazine, now reprinted as *The King of England, George V* (Doubleday, Doran and Co., pp. 71). Much of what the anonymous writer has to say has no claim to novelty. His straightforward explanation, however, of the reasons why the late monarch was more truly popu-

lar than any of his predecessors makes interesting reading and helps to an understanding of the English political temper.

Political Handbook of the World; Parliaments, Parties, and Press as of January 1, 1936 (Harper and Brothers, pp. 207), edited by Walter H. Mallory, is the current edition of a manual issued annually since 1928 under the auspices of the Council on Foreign Relations and regarded as an almost indispensable tool by many students of contemporary world affairs. The present edition shows no marked departures from earlier ones, though a welcome tendency may be detected toward supplying data in somewhat fuller form.

Constitution de la République de Pologne du 23 Avril 1935 (Varsovie: Commission Polonaise de Coopération Juridique Internationale, pp. 72) contains, in addition to a French version of the constitution itself, a general introduction by M. Waclaw Makowski and an historical introduction briefly reviewing the country's constitutional experience by M. Michat Potulicki.

INTERNATIONAL LAW AND RELATIONS

Mr. Raymond Leslie Buell's *The Dangerous Year* (Foreign Policy Association, pp. 80) offers a brief, compact survey of the swiftly-changing international scene in Europe during 1935. A pamphlet of this order is naturally of greater value to the general public than it is to the specialist in international affairs, but even the latter will welcome Mr. Buell's concise summary of issues and his judgments on alternative policies facing the nations of Europe. The direction of the year's events was determined largely by Germany's denunciation of the military clauses of Versailles in March, and by Italian aggression in Ethiopia in October. The former action met with no effective united opposition but with new partial alliances—Soviet Russia with Czechoslovakia and France, respectively—which, the author holds, simply created new tensions. The action of Italy, on the other hand, resulted in a resurrection of the collective system, largely in response to British public opinion. This he regards as a step of lasting value, despite its seeming inconclusiveness in this instance. While condemning both Germany and Italy, Mr. Buell still holds to the thesis of the "haves" and the "have-nots" and contends that the "haves"—especially Great Britain and France—must contribute political and economic concessions if peace is to be maintained. To this reviewer, it seems an inappropriate time for concessions; their value today is dubious. Fascism in its very essence demands more the spiritual triumph of its own force-imposed victories than it does material gains freely received on a silver platter.—WILLIAM P. MADDOX.

The latest volume in the series of Studies on American Imperialism—*The Banana Empire* (Vanguard Press, pp. xiii, 392), by Charles David Kepner, Jr., and Jay Henry Soothill—is by a scholar with advanced training in economics and a man who for sixteen years held a position in the United Fruit Company. The authors analyze the methods used by the corporations which have developed the tropical fruit trade in dealing with the local populations, the governments, and with each other. The record, they find, is far from deserving uniform praise. Those who have developed the "Banana Empire" are given credit for creating ports, for improving sanitary conditions in the vicinity of their plantations, and for increasing employment in regions formerly of no economic value. Against these credits, it is argued, are to be charged debits such as exploitation of labor, coercion of local governments, disregard of law, evasion of taxes, manipulation of prices, and destruction of crops. The clashes of interest are analyzed in detail. While much of the material used is *ex parte*, and while in not a few instances the authors allow themselves to be led by their argument, they produce abundant evidence of abuses. Such circumstances, they point out, are always to be deplored, but especially when the groups responsible operate in countries dependent upon foreign capital. Then the resulting friction embitters not only domestic but international relationships. The closing chapters discuss alternatives to the present producing and marketing arrangements. Cooperative organizations have had a measure of success in Jamaica and Mexico. Labor has "thrown down the gauntlet" to the fruit companies—but, it appears, only ineffectively. The greatest hope, it is contended, lies in eliminating the abuses of "economic imperialism." This should be done by the development of control of company activities by the governments whose citizens furnish the capital, by lessening the profit motive, and by approaching "production for use." How these latter standards are to be obtained is not discussed.—CHESTER LLOYD JONES.

To the now well known series of "World Affairs Books" Dr. Stephen Duggan has contributed *Latin America* (World Peace Foundation, pp. 65). This small volume is based on the same author's *The Two Americas* and is an interpretative summary of political, social, economic, and cultural institutions and conditions in the vast area south of the Rio Grande. Obviously, it is no book for the research student—its slender compass precludes that—but for the layman it presents much material in pleasing, even if highly condensed, fashion. We need a better understanding of Latin America, says Dr. Duggan, and several factors will aid in achieving it: greater tourist traffic (a desirable though unlikely development), increased trade, wider and deeper cultural relations. Social, economic, and most other conditions differ materially from those in Anglo-Saxon

America—"life is neither standardized nor mechanized . . . as it is in this country." The Latin American has traditionally been an individualist and a theorist, more interested in ideas as such than in material things. American cultural influence receives strong competition from that of France. In view of its aim, the book has few defects of consequence. One is a perhaps natural tendency toward too frequent generalization. Accent marks are omitted from a few Latin American names. All in all, however, the summary represents a difficult job adequately done.—RUSSELL H. FITZGIBBON.

In *What the International Labor Organization Means to America* (Columbia University Press, pp. xiii, 108), edited by Spencer Miller, Jr., a group of distinguished American students of labor problems combine with leaders in the field of labor action to express the significance of American membership in the International Labor Organization. The volume is composed of addresses given at the University of Virginia Institute of Public Affairs in July, 1935. A foreword is contributed by John G. Winant, formerly assistant director of the Labor Office, while James T. Shotwell explains the origin of the organization, John B. Andrews traces the beginning of international labor standards, Samuel McCune Lindsay examines the importance of international labor standards, and a number of other recognized students of the subject treat particular aspects of international labor action. The volume exists primarily for giving information to the American people on the values that they may expect from membership in the organization, as well as on the contribution that the United States may make to international labor protection. While representatives of employers and business men stress the value to be derived through work with the Geneva organization, John L. Lewis, president of the United Mine Workers of America, argues that the policies of the organization are an escape from fascism, communism, and American financial dictatorship. He asserts that our membership means that American labor has resumed a position of international leadership. Behind all of the addresses is recognition that developments in American social policy must be expected, and that this social policy should be in harmony with general international trends. It is through the International Labor Organization that Americans can be provided with world-wide information, and through it likewise that international legislative standards can be formulated and protected.—FRANCIS G. WILSON.

In his *Federal States and Labor Treaties* (Printed privately, pp. 171), William L. Tayler traces the origins and application of the articles contained in the peace treaties relative to the International Labor Organization, with special reference to the treatment which may be accorded by federal states to labor draft conventions. Unpublished and recently pub-

lished materials throw new light on the drafting of the basic article (Treaty of Versailles, Art. 435). Next, Dr. Tayler examines the constitutional provisions, statutes, court decisions, and practice of each federal state in order to determine whether labor draft conventions should be recommended to the central government, to the component units, or to both. His conclusion is that the option given to federal states to treat draft conventions under given circumstances as recommendations has never been taken by five states, has been used only once by two states, and is likely to be used less frequently in the future by Australia and Canada because of recent changes in constitutional interpretation in these two states. He believes that the option does not exist for the United States because the national government is competent under the treaty-making power to deal with labor questions. The early fear that the International Labor Organization would be weakened by the option granted the Conference to adopt either draft conventions or recommendations is unwarranted. The option has in practice broadened the scope and usefulness of the Conference.—CHESNEY HILL.

In *The Attempts to Form an Anglo-French Alliance, 1919–1924* (University of Pennsylvania Press, pp. 85), J. Paul Selsam endeavors to show (1) the ultimate effect upon post-war European diplomacy of America's refusal to participate in European affairs, (2) by a "detailed study" of the Anglo-French negotiations, that post-war diplomacy is much the same as pre-war, and (3) that the idea of Locarno was long in germinating. The first chapter is an account of the events at the Peace Conference which led to England and the United States signing treaties of guarantee with France, of the part played by the United States in the negotiations, and of the Senate's refusal to validate the President's signature. The remaining chapters trace the negotiations between England and France through the Cannes Conference to the Locarno treaties. The author has made available in convenient form an account of these significant negotiations which laid the basis for the Locarno treaties. However, the student of international relations will be disappointed by the inadequacy of the first chapter, by at least one of the author's conclusions which is not justified by the facts he presents (pp. 34–35), and by the omission of important sources from the bibliography of works consulted. The book is based largely on materials in public documents and in D'Abernon's valuable diary. It is surprising that no mention is made of such sources as Miller's *Diary at the Conference of Paris* and of Mermeix (Terrail).—HOWARD B. CALDERWOOD.

Something like two-thirds of G. Nye Steiger's *A History of the Far East* (Ginn and Co., pp. vii, 928) has to do with centuries before the nineteenth, and the period since the World War is covered, for the most part,

in a single chapter of some sixty pages. Nevertheless, students and teachers of recent and contemporary Far Eastern politics will find the book a convenient one to have at hand. Treating India and Malayia, as well as China, Korea, and Japan, the author provides a systematic, readable, and scholarly narrative of significant developments from the earliest times, with so much attention to institutional, cultural, and social aspects as the demands of historical recital seem to permit. Inevitably—with so vast a stretch of history to be traversed—the story of events gets most of the space; even this must be cut to such a pattern that, for example, the entire Manchurian affair of 1931 and its aftermath must be disposed of in ten pages. But for a trustworthy running account of Far Eastern affairs from the remoter depths of history to the present age, one will hardly find a better book.—FREDERIC A. OGG.

The last edition of Denys P. Myers' *Handbook of the League of Nations* (World Peace Foundation, pp. xiii, 388) is useful for both those who are well informed and those who are not well informed on the League of Nations. The latter may secure a well rounded picture of the League, and the former will find the handbook a convenient means of keeping abreast of League organization and activities. Particularly useful are the footnote references to documents where the student may obtain information concerning the continuing work of the League briefly treated in the text. One finds a few questionable statements. For example, the assertion on page 29 that the work of Assembly committees is done by majority voting should be qualified; on page 107, the explanation of the failure to adopt a single organic law for Syria is subject to question; and on page 122, the statement that protection of minorities of race, language, and religion "was accepted as a principle of international polity" from 1878 onwards is too strong. However, for a book of this type, there are remarkably few errors, and those few which the reviewer discovered do not detract from its value.—HOWARD B. CALDERWOOD.

Dr. Arnold J. Toynbee's trustworthy and useful *Survey of International Affairs, 1934* (Oxford University Press, pp. x, 743), issued under the auspices of the Royal Institute of International Affairs, ranges widely geographically and, as was true of most preceding volumes in the series, places much stress upon events and developments of an economic character, notably in Europe. In recognition of the emancipation of Iraq, however, the lengthiest single section of the book is devoted to the Middle East, whose affairs are brought fully up to date, with documents, from the point where they were left in the *Survey* for 1930. A final section, of some sixty-five pages, reviews the course of events in the Far East. The United States and Latin America appear but very briefly. In the case

of the former, the lack is, of course, supplied by the appropriate volume of *The United States in World Affairs*, issued by the Council on Foreign Relations.

Sir Norman Angell has written an informative and penetrating pamphlet, *Raw Materials, Population Pressure, and War* (World Affairs Books, No. 14, pp. 46) for the World Peace Foundation. He fights doughtily against recent materialistic and imperialistic assumptions that the economic map of the world must be redrawn to keep the "have-nots"—Germany, Italy and Japan—from remaining a perpetual menace to the peace of the world. He denies that any real economic need underlies the struggle for either raw materials or population outlets. "The trouble with raw materials is not scarcity or the fact that nations tend to keep them to themselves—not difficulty of access, that is; the trouble is to find the means of payment for raw materials desired;" if the map of the world could be rearranged to make each nation relatively self-sufficient today, new inventions or changing needs would soon create the need for another rearrangement. Monetary instability and barriers to international trade, rather than lack of raw materials or colonies, are preventing peace. No economic determinism necessitates wars for new colonies.—HERBERT W. BRIGGS.

In the course of journeys to Great Britain and North America, M. Charles Herisson rediscovered the fact that the French and Anglo-Saxon peoples really do not understand each other. His recent book, *Les Nations anglo-saxonnes et la paix* (Sirey, pp. 204), endeavors to correct a portion of this misunderstanding by offering to the French reader a "realistic" interpretation of the present-day peace policies of the United States and Great Britain. Although the analysis is a mixture of shrewd observation and naïveté, it is far more sympathetic and accurate than the kind usually found in a popular French discussion of British or American foreign policy. If widely read, its effect should be salutary.—GRAYSON L. KIRK.

Professor O. Paranaguá, of the University of São Paulo, has published a convenient little handbook entitled *Tariff Policy* (Oxford University Press, pp. ix, 223). In it one may find in a clear but condensed form a résumé of current tariff theories, terminology, and forms, together with an account of the post-war evolution of the commercial policy of the leading powers. Although the book has value, one cannot help wishing that the author's wide knowledge and keen insight had led him to make a somewhat more critical interpretation of existing trends.—GRAYSON L. KIRK.

POLITICAL THEORY AND MISCELLANEOUS

"Interpretations—1933–1935" (Macmillan Co., pp. x, 399) contains selections from the able articles contributed by Mr. Walter Lippmann to current newspapers during the years indicated. The selections were made and their sequence arranged by Allan Nevins, and Mr. Lippmann is most fortunate in securing the help of such a judicious and capable collaborator. The book is topical in arrangement, but under the separate chapter headings the subjects are treated chronologically. These deal more especially with domestic than foreign affairs, and this is rather unfortunate, for Mr. Lippmann always in this and other political works is especially happy and authoritative in his discussion of international problems and the relation of the United States to them. But since our present governmental turmoil, and political and economic chaos at home, must necessarily occupy the first attention of thoughtful citizens, naturally the author has met this demand. His discussions are stimulating as usual, and often, but not always, convincing. Mr. Lippmann is an outright Democratic partisan in thought; hence the articles have a decided flavor of party politics. In the estimation of the reviewer, this is not by any means a detraction from the value of the discussions, but a real merit. Too often "objective scholarship" is a convenient masquerade for lack of courage in thought, and "pussyfooting" in writing, if the well-understood slang phrase may be used. It is refreshing to meet courageous statement, even if one does not altogether agree with it, and Mr. Lippmann meets this test adequately. A point of view is of little value unless a person is willing to contrast it with that of the "other side." On the other hand, of course, partisanship may lead astray, and this has occurred here and there in these writings; for Mr. Lippmann sometimes falls victim to the loose and seductive political and economic thinking so characteristic of that strange phenomenon known as the New Deal. Also his varying views upon the personality and policies of President Roosevelt are interesting, to say the least. If Mr. Lippmann is especially strong on international affairs, he is likewise, in the opinion of the reviewer, weak upon currency and finance. But when one writes upon so many different subjects that require expert knowledge, it is small wonder if one cannot be equally authoritative upon all. This book is a valuable storehouse of fact, and will prove of inestimable help to the historical and political investigator of the future as well as to the present-day observer of current affairs.—WILLIAM STARR MYERS.

An eclectic summation of a mass of mostly secondary material appears in the latest volume by Maurice Parmelee, *Farewell to Poverty* (John Wiley and Sons, Inc., pp. 489). The greater part of the book is devoted to an overwhelming barrage of statistical data analyzing American society

from the Technocratic viewpoint. The figures are given on poverty, wealth, price levels, purchasing power, distribution, production, technological advance, population, and a host of other subjects. The array, probably reasonably accurate in the indication of trends, tends to bludgeon one into a statistical coma. The treatment, though stemming from Veblen in ideology with an admixture of Marxism seasoned with the more recent Technocracy, lacks Veblen's profound analysis of institutional relationships. Mr. Parmelee's method is much too facile; he races along omnisciently, not only over the analytical portions which are fairly well documented, but over theories of economics, society, and government, dispensing judgments on men and systems with no little abandon. His thesis: American capitalism is on the road to ultimate and complete collapse (a fate which may soon overtake it); New Deal attempts at recovery and more serious attempts at reform which do not dispense entirely with the profit system are doomed to a short life and failure—including regional or national planning, education, social insurance, "gradualism"; Russia points the way in all fundamental respects and is achieving that ideal use of technological equipment which is quite impossible under capitalism; American technological and social organization is such as to make feasible a rapid transition from capitalism to collectivism if the people prove able to seize the opportunity when it is ripe. With a quite uncritical use of information concerning things and events in Russia, Mr. Parmelee combines pontifical statements as to what Russia must yet do to prove the complete superiority of collectivism to capitalism. Though somewhat repetitious, the volume is readable, contains a mass of valuable information, and gives a summary cross-section of recent literature on economic production, consumption, and organization. It implements, with statistics, that most amazing present-day fact: mass poverty in the midst of plenty.—HARVEY PINNEY.

Because there is available no general introduction to the theory of federalism in a single volume, such as students in Indian universities might find especially useful since the adoption of the new constitution, M. Venkatarangaiya, head of the department of history, economics, and politics, Anhra University, Waltair, analyzes in *Federalism in Government* (Madras: Huxley Press, pp. 215), the theory of federalism, its application in the principal federal states of present and recent times, and especially with reference to the conditions of India. Despite the progressive centralization in present-day federal states, and notwithstanding the difficulties attendant on this form of government, Venkatarangaiya's study shows in any case the natural basis of federalism in the roots of Indian communalism. There is added to a careful analysis of the general theory a rather new emphasis, together with a judicious support at certain

points, such as that federalism is essentially a unifying force, and that bicameralism is not of its essence. Clearly our American *Federalist* has been of use. There is a good deal with which American students are sufficiently familiar. Yet the work, while based largely on secondary sources, brings the subject commendably to date. The matter, very rarely repetitious, is clearly and systematically presented. The accession of the Indian states to the federation is voluntary, while that of the provinces is compulsory. Yet the new constitution—and it promises for a considerable future to be ground for controversy—is the work essentially of the princes of the states, together with Muslim minority and the Imperial power itself. Faced with the prospect of democratization in India, the princes prefer, naturally, that the paramountcy of Great Britain over themselves should not become subject to the ministerial responsibility of a native-controlled parliament. The result is a complicated federalism, "devised for the purpose of opposing the forces of democracy," in which the author admits an indication of certain progressive features, as for example in the extensive field that is provided for coördinate and coöperative action between the units, but in which the autonomy of the provinces is not very real.—WALTER SANDELIUS.

Marx and the Trade Unions (International Publishers, pp. 188), by A. Lozovsky, is a well-documented discussion of Marx's theory of trade unionism, as well as an account of his participation in the trade union movements of his day, both as adviser and as leader. Having broken with the utopian and the half-utopian socialists who failed to grasp that it is the proletariat, and none other than the proletariat, that will abolish capitalism, Marx was impelled to study without prejudice or condescension the spontaneous movements of the laboring class, especially trade unionism. He made it his task to carry to the working class "knowledge," that is "scientific socialism," since "numbers weigh only in the balance if united by combination and led by knowledge." The quintessence of that "knowledge" was that the trade unions are the "schools of socialism." Accordingly, Marx struck out both against the self-styled revolutionaries who despised the trade unions as doomed to a Sisyphus task and the "opportunists," including some of the trade union leaders who refused to subordinate their organizations to the revolutionary political task. The author continues Marx's polemic against the "opportunists" of our own day. In the reviewer's opinion, he is on safe Marxian ground in doing so. However, it is another matter whether the despised opportunists have not shown a more thorough grasp of the correlation of power in modern capitalist societies (among which the Russia of 1917 was *not* numbered), as well as of the psychology of the so-called "proletariat" itself. The reviewer misses an adequate discussion of the economic rôle of the trade

unions under capitalism, even in the terms of Marxian economics.—SELIG PERLMAN.

Problems of Organized Labor (pp. 258) is the title of the March number of the *Annals of the American Academy of Political and Social Science.* Dr. Leon C. Marshall edited the volume, and 28 persons made separate contributions, including Frances Perkins, George Soule, Willard L. Thorp, Harold G. Moulton, John G. Winant, W. Jett Lauck, Lloyd K. Garrison, William Green, Selig Perlman, and John L. Lewis. The articles are grouped under four general headings: "The Nation's Labor Supply," "Industry's Labor Policies," "Labor and the National Government," and "The Organization of Labor." Among the separate titles, we find: "A National Labor Policy," "Evolution of Industry and Organization of Labor," "In Defense of the Longer Week," "Labor Standards in NRA Codes," "Labor and Economic Security," "Coal Labor Legislation," "Goals of Organized Labor," "Principles of Collective Bargaining," "Adapting Union Methods to Current Changes," "Industrial Unionism," and "Employee Representation." Those who are especially interested in the political and governmental aspects of the labor problem will probably turn first to these articles: "Labor Standards in NRA Codes," "Labor's Rôle in Governmental Administrative Procedure," "Labor and Judicial Interpretation," "The Political Rôle of Labor," and "The National Labor Boards." Indeed, most of the problems discussed are in reality problems of modern government even more than problems of organized labor itself; and, altogether, the volume is a useful one.—EARL WILLIS CRECRAFT.

Volume VI of the Selected Works of V. I. Lenin is edited by A. Fineberg and entitled *From the Bourgeois Revolution to the Proletarian Revolution, 1917* (International Publishers, pp. xv, 660). The voluminous speeches and writings included are grouped under five headings: "The February Revolution and Its Prospects"; "Internal Party Questions"; "The Proletariat and the Party on the Road to October"; "The Party and the Peasantry on the Road to October"; and "The October Revolution and Its Significance." Some writings of the period are, indeed, so voluminous that for purposes of the present collection they are replaced by shorter and more popular ones; for example, a crisp paper, "The Aims of the Revolution," is substituted for the lengthy brochure, "The Threatening Catastrophe and How to Fight It." The highly significant work, "The State and the Revolution," is omitted also, though only postponed to Volume VII of the series. As in earlier volumes, copious explanatory notes (146 pages in all) help to supply necessary background.

RECENT PUBLICATIONS OF POLITICAL INTEREST
BOOKS AND PERIODICALS

CHARLES S. HYNEMAN
University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW

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This is included because it gives the complete statutory set-up of this important new agency, and also its present physical set-up.

——— *Federal Register*

As a result of a caustic remark by Mr. Justice Brandeis during the argument of the "Hot Oil" case, because neither the government nor the defendant knew that a regulation under which the defendant was being prosecuted had been withdrawn, Congress enacted a law providing for the daily publication of presidential proclamations, executive orders, and departmental rules and regulations of general interest; with the proviso that any regulation which prescribed a penalty should be so printed. This work was turned over to the National Archives, and the first issue of the new daily *Federal Register* appeared on March 14, 1936. In it will be listed the material noted above, the first issue containing an executive order by the President, and rules, orders, and regulations by the Department of Agriculture, the Federal Trade Commission, the Securities and Exchange Commission, and the Treasury Department.

State Department

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